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UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

DEYANA JENKINS, AN INDIVIDUAL,)
)
 PLAINTIFF,)
)
 VS.)
)
 CITY OF VALLEJO, A MUNICIPAL)
 CORPORATION; ANDREW BIDOU, IN HIS)
 INDIVIDUAL CAPACITY AS CHIEF OF)
 POLICE; COLIN EATON, IN HIS)
 INDIVIDUAL CAPACITY AS POLICE)
 OFFICER FOR THE CITY OF VALLEJO;)
 JORDON PATZER, IN HIS INDIVIDUAL)
 CAPACITY AS POLICE OFFICER FOR THE)
 CITY OF VALLEJO AND DOES 1-50,)
 INCLUSIVE,)
)
 DEFENDANTS.)

CASE NO. 2:19-CV-01896
TLN-DB

REMOTE DEPOSITION OF JOHN WHITNEY

TUESDAY, MAY 13, 2025, 10:04 A.M.

STENOGRAPHICALLY REPORTED BY:

LAURY WASOFF, CSR NO. 10995

JOB NO.: 318815

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REMOTE DEPOSITION OF JOHN WHITNEY,
taken on Tuesday, May 13, 2025 at 10:04 A.M. via Zoom
videoconference before Laury Wasoff, Certified Shorthand
Reporter, in and for the State of California.

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I N D E X

WITNESS: JOHN WHITNEY

EXAMINATION BY:	PAGE
MS. NOLD	5, 214
MS. CRAWFORD	155

EXHIBITS

(None offered.)

UNANSWERED QUESTIONS

(None.)

INFORMATION REQUESTED

(None.)

1 TUESDAY, MAY 13, 2025, 10:04 A.M.

2
3 THE COURT REPORTER: Good morning. My name is Laury
4 Wasoff. I am a licensed Certified Shorthand Reporter in
5 the State of California. My CSR license number is
6 10995. I will be producing a transcript of these
7 proceedings that is automatically admissible in court.

8
9 JOHN WHITNEY,
10 the witness herein, having been first duly
11 sworn remotely, testified as follows:

12
13 EXAMINATION

14 BY MS. NOLD:

15 Q. Good morning, Mr. Whitney. We met before at a
16 deposition just like this one on Zoom a couple of years
17 ago. You're being called today based on your knowledge
18 of the case that we're here for and other information
19 related to the Vallejo Police Department and your
20 capacity as a police captain. Is that your
21 understanding of why you're here today?

22 A. Yes, ma'am.

23 Q. And you were notified by the attorney
24 representing you in a civil suit to notify you to be
25 here today. Is that correct?

1 2015, I was the detective captain. I was also the
2 professional standards captain and I was the emergency
3 service unit captain. It was basically to supervise
4 those units and all the different duties that go into
5 each of those three different sections, running the
6 tactical teams within the emergency service unit. In
7 investigations, it was responsible for detectives, the
8 street team, and the evidence section and liaisoning
9 with all the task force supervisors and some of the
10 federal agencies. And then in professional standards
11 was to make sure the internal affairs investigations
12 were being conducted correctly and deal with the hiring
13 process and reviewing backgrounds and polygraphs and
14 things of that nature as they came across my desk. I
15 also worked as the liaison to the mayor's office and
16 fielded a lot of the calls from city council members
17 when they had questions about things that were going on
18 inside the police department.

19 Q. So it sounds like you did a little bit of
20 everything.

21 A. Yes. And I forgot. I was also in charge of
22 the community -- I think back then it was called the
23 community engagement section, something like that. It
24 was the community services that used to be down at
25 2 Florida. I supervised them as well and did a lot of

1 the community engagement things at night and on the
2 weekends.

3 Q. I think you said August of 2019 is when your
4 employment with the city of Vallejo ended. Correct?

5 A. Yes.

6 Q. Why did your employment with the city of
7 Vallejo end?

8 A. The city terminated me.

9 Q. And why did they terminate you?

10 A. On the paperwork it said for deleting items off
11 my cell phone. But it was -- that's not what I took as
12 why they terminated me.

13 Q. And what did you take as why they terminated
14 you? What was your belief as to why they terminated
15 you?

16 A. I believe they terminated me for whistle
17 blowing on anything badge bending and other issues going
18 on inside the police department that I had reported to
19 the city manager, the mayor, and the city attorney.

20 Q. I want to go back a little bit in time. When
21 did that happen that you whistle blew about the badge
22 bending and other issues?

23 MS. CRAWFORD: Objection. Vague.

24 Go ahead.

25 THE WITNESS: Badge bending and a lot of the issues

1 that I reported were in around April of 2019.

2 Q BY MS. NOLD: In your lawsuit you described two
3 incidents related to what I understood to be the whistle
4 blowing that lead to your termination. One was the
5 badge bending and the other was a Tasing incident where
6 the victim was not named. Correct?

7 A. Correct.

8 Q. And there were other issues, but those two were
9 in your complaint specifically. Right?

10 A. That's correct, yes.

11 Q. And we discussed it on the prior record, but
12 the Tasing incident in your lawsuit with the unnamed
13 victim was my client, Deyana Jenkins. Is that your
14 understanding?

15 A. That's correct, yes.

16 Q. How did you come to know what happened to my
17 client, Deyana Jenkins, when you first found out about
18 it?

19 A. I was also working as the public information
20 officer for the city of Vallejo, and during that time an
21 email had come in from a reporter -- I believe he worked
22 for The Chronicle at the time -- named Otis Taylor. And
23 he was inquiring about a traffic stop involving
24 Ms. Jenkins and why she was stopped. I believe he asked
25 for the probable cause for the stop and the reason why

1 force was used. And I can't remember some of the other
2 questions he asked in his email. And once I had learned
3 about that there was an issue, I got a copy of the body
4 camera footage from that traffic stop and the reports
5 and reviewed everything from that stop.

6 From there I had discovered that Mr. Taylor was
7 contacting the city mayor's office and other council
8 members, trying to find out information about the
9 traffic stop.

10 Q. So to my understanding, you received this email
11 from Mr. Taylor while you were acting in the capacity as
12 a public information officer. As I understand it, the
13 job is to respond to media requests and things like
14 that. So one person who's doing it versus having
15 different people in different divisions. Am I correct?

16 A. The way we ran it is I was the head public
17 information officer. A sergeant named Jeff Tai, who I
18 believe now is a lieutenant, worked for me, and he would
19 handle some of the littler inquiries, and I think he
20 handled also our social media pages. But when something
21 bigger would come in, I would handle it. Especially
22 when it rose to the level of there's a lot more to this
23 than just answering a quick question. It's giving us
24 some insight on something that happened that up to that
25 point I didn't know anything about.

1 Q. During that inquiry when Mr. Taylor originally
2 contacted you, did you have the understanding that
3 Ms. Jenkins was related to William McCoy who had been
4 killed a couple months before that?

5 A. I did not know at the time. I don't believe I
6 knew right at the time. I had found out shortly after.
7 I don't think I put it together when I was looking at
8 the email, though. I did figure it out later.

9 Q. At some point you came to that understanding.
10 You just are not sure about when in the sequence?

11 A. Yes.

12 Q. So Mr. Taylor brought your attention to it and
13 you reviewed the footage of the incident yourself.
14 Correct?

15 A. Correct.

16 Q. Was there anybody else that reviewed that with
17 you that was part of that investigation?

18 A. As far as the investigation, the chief of
19 police was in Idaho that week, so I was the acting chief
20 of police. I had contacted him to let him know what was
21 on the video and what had occurred and the inquiries
22 into it, and he said to contact Greg Nyhoff, the city
23 manager, and make sure he's aware of it. I guess --
24 well, I don't want to guess. So I made arrangements to
25 meet with Mr. Nyhoff and show him the videos of the

1 traffic stop.

2 Q. And did you meet with Mr. Nyhoff to show him
3 the videos?

4 A. Yes. We met one-on-one and I showed him the
5 videos from the traffic stop.

6 Q. When you reviewed the incident with
7 Ms. Jenkins, did you believe that that incident was an
8 excessive force incident?

9 A. I believed it was, that it was what I would --
10 what is termed unnecessary force.

11 Q. And prior to reviewing that, part of your job
12 was related IA-related things. That wasn't outside of
13 your wheelhouse. It was in the scope of what you were
14 supposed to be doing at that time. Right?

15 MS. CRAWFORD: Objection. Vague.

16 THE WITNESS: At that time I was not assigned to
17 professional standards, but at that time I was assigned
18 as the acting chief of police and was looking into an
19 issue that had occurred and wanted to make sure it was
20 handled properly. So it was within my purview to review
21 those videos as the acting chief of police.

22 Q BY MS. NOLD: Okay. And just to be clear, I'm
23 not suggesting it wasn't appropriate for you. But you
24 weren't technically over IA because you were acting
25 chief of police at that time, but you still would have

1 had responsibility just as a captain in general to
2 assess an issue that was brought to your attention or
3 you became aware of it. Right?

4 A. Correct.

5 MS. CRAWFORD: Objection. Vague.

6 THE WITNESS: That's correct. At that time I was
7 the acting chief of police and a police captain. I was
8 no longer at that point, though, in charge of
9 professional standards. That wouldn't have been a
10 normal part of my job. But as the acting chief of
11 police and a captain responsible for making sure the
12 police department is doing the right thing, then yes,
13 that is -- I am allowed to do something like that,
14 review videos.

15 Q BY MS. NOLD: And so you reviewed the videos.
16 You had concerns about the force. You contacted
17 Chief Bidou, who was on vacation. You were acting as
18 interim. He told you to contact the city manager, Greg
19 Nyhoff, and you sat for a meeting with Mr. Nyhoff. Is
20 that accurate up to that point?

21 A. Yes.

22 Q. Tell me about the conversation with Mr. Nyhoff.
23 You said you met him one-on-one. Did you meet him at
24 his office? Did he come to you?

25 A. I met him in his office. I brought a laptop

1 computer with me to play the videos for him so he could
2 see exactly what had occurred and what we were dealing
3 with so it wouldn't have been a shock should it become
4 something that's played on the news.

5 Q. Do you know or do you recall if you guys also
6 had the cell phone videos from the people inside of the
7 car as part of your review to show what wasn't on the
8 body camera or do you remember?

9 A. I believe I had seen the video prior to seeing
10 the actual body camera footage. I don't remember if I
11 played him the cell phone video. The body camera
12 footage appeared to be a lot clearer, though.

13 Q. Right. Better quality to be able to -- and
14 closer, from what I understood, to the action, if that's
15 the right word.

16 A. It showed better footage of the officer's view
17 versus the occupants of the vehicle filming the
18 officers.

19 Q. And do you remember what the response was from
20 Mr. Nyhoff? Did he give you any directions? At that
21 point he was essentially your boss. Right?

22 A. That's correct. And he made it very clear that
23 he was my boss and I was to do what he told me to do.
24 And he was very angry about what he saw in the video.
25 He had made a comment that had he been stopped for the

1 same circumstance, he didn't believe he would be removed
2 from the car and that he simply would have his name ran,
3 not having his driver's license with him, and being sent
4 on his way. He referred to himself, they wouldn't have
5 treated a 55-year-old white man in the same way. And he
6 said he wanted an investigation into it. And he was
7 very angry because this video came out at the same time
8 other things were coming out in the media, and he wanted
9 to know what Chief Bidou was doing with "his" police
10 department. Mr. Nyhoff was referring to the police
11 department as his police department and wanted to know
12 what else was going on inside the police department.

13 Q. The city manager is responsible for hiring and
14 firing the chief of police. Correct?

15 A. In the city of Vallejo, yes. In 2019, yes. I
16 don't know what the rules are now.

17 Q. It's still the same.

18 So at that point essentially it is his police
19 department. Right? Because if something goes bad, it's
20 on him and it's going to be his head that rolls because
21 he is the only one who can do anything about the
22 department at that time in the city. Right? As far as
23 hiring and firing people?

24 A. Yes, that's correct.

25 Q. So he was upset and he was demanding an

1 investigation. Is that your understanding?

2 A. Yes.

3 Q. And how did that meeting end? Was the
4 understanding that you were going to go procure an
5 investigation, that that was your directive, that you
6 should go to the investigation? Or did he get that
7 specific of who would do what? Do you remember?

8 A. He simply said he wanted an investigation. And
9 so when I was done with that meeting, I had contacted
10 Chief Bidou by phone and let him know that Mr. Nyhoff
11 wanted an investigation into the traffic stop and the
12 use of force.

13 Q. What did Chief Bidou say?

14 A. Chief Bidou wasn't happy with it. He wanted us
15 to kind of handle it separately.

16 And if I can back up for a second, I forgot one
17 thing that Mr. Nyhoff said at the conclusion that would
18 kind of make more sense of this. Mr. Nyhoff wanted a
19 meeting set up where I would play the videos for
20 himself, the mayor -- Mayor Bob Sanpayan at the time --
21 and the city attorney, who was Claudia Quiatana at the
22 time. He wanted the videos played for them the next day
23 so we could come up with a game plan on how we were
24 going to move forward with both the media and the
25 investigation. And I had passed that on to Chief Bidou,

1 who was not happy with the amount of involvement in this
2 investigation.

3 Q. He was not happy about Nyhoff's involvement in
4 the investigation?

5 A. I don't think -- no. It was he was not happy
6 about -- Nyhoff is who he told me to go show the videos
7 to. He was not happy that Mayor Sanpayan and
8 Ms. Quiatana were also involved in this and it was
9 becoming bigger than he thought it should have been.

10 Q. What happened next in the sequence of
11 investigating this incident?

12 A. As far as the investigation, there was a
13 decision made that we would conduct an investigation.
14 And then shortly after that I was placed on
15 administrative leave, so I don't know if an
16 investigation ever took place or whatever happened with
17 any of that.

18 Q. When the decision was made to conduct the
19 investigation, whose decision was that or whose
20 collaborative decision?

21 A. It was a collaborative decision that came out
22 of the meeting with -- there was more people involved in
23 that meeting the next day. It also included
24 Captain Joseph Iacono, who came in to give his opinion
25 on the use of force.

1 A. Yes. I have no idea if it was ever done or
2 completed or the findings. I know nothing about it.

3 Q. How long after the meetings with Nyhoff and
4 others were you put on leave?

5 A. I went on a vacation for a couple weeks. I
6 actually attended training and went on vacation. I was
7 recalled -- on May 22 I was recalled back to the police
8 department while I was attending training and was served
9 with an IA. And then I can't remember the exact day I
10 was placed on leave. I believe it was the following
11 week. But without my notes, I don't know.

12 Q. Okay. That's fine. I'm just trying to get an
13 idea of the sequence of time.

14 When you had the conversation with Mr. Nyhoff,
15 you talked about Ms. Jenkins, is that also when you
16 revealed the badge bending information that you had, or
17 was that in a separate, different meeting?

18 A. No. It was in that meeting.

19 Q. And do you recall -- so you talked about the
20 Jenkins incident as obviously a separate thing to deal
21 with. What do you recall telling him about the badge
22 bending?

23 A. I told him that officers were bending their
24 badges to mark shootings they were in and that it needed
25 to stop. In law enforcement we don't keep score of

1 people we shoot. And he was very angry about that.
2 Yelling. And then he wanted to know of other things
3 that were going on inside the police department. I know
4 I shared a few other things with him. It wasn't just
5 those two incidents. But as I sit here today, I can't
6 remember exactly what other things I shared with him.
7 It was more than two, though.

8 And he was very angry, and he pointed at the
9 chair in his office and said "Andrew," referring to
10 Chief Andrew Bidou, "sat there this week and told me
11 everything was fine in the police department, that
12 nothing was going on." And that's what he said. "I
13 want to know what's going on with my police department."

14 Q. At that time was it your understanding that
15 everything was fine in the police department?

16 A. No.

17 MS. CRAWFORD: Objection. Vague.

18 THE WITNESS: I did not think everything was fine in
19 the police department. I thought, in my opinion, the
20 police department was a mess, and I told Mr. Nyhoff that
21 I thought that the police department needed to be
22 rebuilt from the top down, that the leadership was not
23 doing what they were supposed to be doing.

24 And I shared with him -- oh, no. I didn't
25 share with him at that time. But yeah, I had -- I

1 thought the police department needed some serious
2 repairs and that it wasn't being ran the way it should
3 have been ran.

4 Q BY MS. NOLD: What did you share with him later
5 that you were about to say?

6 A. In a later conversation I shared with him that
7 I was in the process of trying to leave the city of
8 Vallejo and that I had been applying for other agencies
9 just to get out of that environment.

10 Q. And what was it that made you want to leave
11 specifically?

12 A. I didn't like how things were being handled as
13 far as when we had complaints from the community or we
14 had internal affairs investigations of our own that they
15 weren't being investigated properly, that they were
16 being covered up. And I remember having a conversation
17 with Chief Bidou. He said he just had to make it to 50,
18 and then after that it would be my problem to fix. And
19 I just didn't like how things were being handled. And
20 at that point it felt like, because I had been removed
21 from the professional standards side of my position,
22 that things were being hidden from me even more and I
23 wasn't being included in conversations that a captain
24 should be. So I felt at that point it was probably best
25 for me to go work for another agency to finish my career

1 someplace else.

2 Q. What kind of things did you think were being
3 hidden from you?

4 A. There was citizen complaints or internal
5 affairs investigations that were going directly to the
6 lieutenant and the sergeant of professional standards.
7 There were IAs being conducted I knew nothing about.

8 I had learned of a filing cabinet that they
9 referred to as informal resolutions and they weren't
10 being included in the internal affairs folder. It was a
11 whole separate section of internal affairs
12 investigations that I knew absolutely nothing about.
13 And when I started learning things like that, it struck
14 me as we're hiding things when we're supposed to go to
15 Pitchess motions and reveal all these items. Are these
16 going as well or do we have two separate IA files and
17 why are we doing this?

18 So when I started learning with things like
19 that, I could tell that we certainly weren't doing
20 things correctly and the way industry requires them to
21 be done. There was nothing I could do to fix it, so I
22 felt the best way for me and my family was just to
23 leave.

24 Q. Did you feel if you stayed and try to fix it,
25 you would have been in danger or your family would have

1 been in dangerous?

2 A. Chief Bidou had brought me in at one point in
3 the springtime. I can't remember the exact month. But
4 he had told me that I better stop asking questions if I
5 liked my job. And he wanted to know if I could get a
6 job someplace making the same amount of money with the
7 same retirement. And I took that as a very big warning
8 to stop asking questions and just to go along with the
9 flow. So I felt like that was a very threatening
10 meeting without him coming right out and saying "If you
11 don't stop, I'll fire you. I'll find a reason."

12 Q. So once you started making inquiries about
13 concerns that you thought were inappropriate in IA,
14 that's when Bidou reminded you how well you were paid
15 and how hard it would be to find a comparable job
16 elsewhere?

17 MS. CRAWFORD: Objection. Misstates testimony.
18 Vague and ambiguous.

19 THE WITNESS: The time, I don't know exactly when.
20 It was sometime in the spring of 2019. But it was
21 somewhere related to when I started discussing other
22 issues going on inside the police department.

23 Q BY MS. NOLD: When you had mentioned the filing
24 cabinet, the Pitchess cabinet, it's my understanding --
25 let me know if this is also your understanding --

1 Captain Jason Potts and maybe others had a separate
2 distinct cabinet referred to as the Pitchess cabinet
3 whereas there was a whole other system of claims and
4 complaints and formal complaints and things that were
5 coming in that were never making it to court, that were
6 never being turned over to civil plaintiffs and things
7 like that. It's my understanding it went on like that
8 for quite some time. Is that what you're talking about?

9 A. Yes.

10 MS. CRAWFORD: Objection. Calls for speculation.

11 THE WITNESS: Jason Potts, when he was a sergeant in
12 internal affairs, actually showed me the cabinet where
13 they kept everything, and it was separate from the
14 cabinet that sat across from then admin and analyst Joni
15 Brown, who worked in internal affairs at the time. Two
16 separate cabinets.

17 Q BY MS. NOLD: Did Joni Brown know about the
18 cabinet?

19 MS. CRAWFORD: Calls for speculation.

20 THE WITNESS: I don't know.

21 Q BY MS. NOLD: And that's all I want to know.
22 Maybe you discussed it with her or had some reason to
23 know if she knew about it.

24 A. I have no idea what she knew.

25 Q. So Potts showed you the cabinet. I guess at

1 some point were you ever in professional standards,
2 working in professional standards when Potts was in
3 professional standards at the same time?

4 A. I was the captain of professional standards.
5 Back in May of 2015, at some point during my time as the
6 professional standards captain, Jason Potts was the
7 internal affairs sergeant, and that's when he had showed
8 me this cabinet.

9 Q. And you mentioned there was two cabinets. So
10 what was your understanding was in the first cabinet?

11 A. The cabinet in Ms. Brown's office was the
12 internal affairs files, and then the cabinet inside
13 Jason Potts's office was referred to as the informal
14 resolution internal affairs or the complaints cabinet.

15 Q. So to make sure I'm understanding, the cabinet
16 in Ms. Brown's office were the things that actually went
17 for Pitchess motions and for court-related things, and
18 the one in Potts's office were the ones that were the
19 informal resolutions or the ones that didn't make it to
20 the actual file in Brown's office?

21 MS. CRAWFORD: Calls for speculation.

22 THE WITNESS: Correct.

23 Q BY MS. NOLD: And you're not -- that's not
24 based on speculation. That's based on what Mr. Potts
25 told you directly. Right?

1 A. Correct.

2 Q. Was there ever a time when you were in IA that
3 you were asked to present those files at a Pitchess
4 motion?

5 A. No. I typically did not go to Pitchess
6 motions. It was usually Ms. Brown or Sergeant Potts.

7 Q. Based on your understanding, the information --
8 some of the information that was in that alternative
9 file were complaints of misconduct and excessive force
10 and things like that that, if things were being handled
11 differently, should have been going to court, should
12 have been getting turned over to the judge. Right?

13 A. I don't know exactly which -- what was the
14 topics of everything in that folder, but it is my
15 understanding for Pitchess that everything in an
16 officer's folder is supposed to go to court for the
17 judge to review in camera and make a determination of
18 whether or not he turns it over to the party that is
19 filing the Pitchess motion.

20 Q. Was it your understanding that some of the
21 records that didn't make it to the court should have
22 been -- the judge should have been making the call
23 whether those were turned over, not the IA guys?

24 A. Yes. A judge is supposed to make those
25 decisions, not police officers.

1 Q. So an example, say there's a criminal case.
2 Right? That's mostly what you guys were doing. Not
3 related to civil litigation. The majority of it related
4 to Pitchess motions. Right? The things you're actually
5 turning over?

6 A. Yes. The majority of the things that we turn
7 over there are Pitchess. There is a civil side of
8 professional standards that works with the city
9 attorney's office.

10 Q. So, for example, a murder case or something,
11 you know, accusing the officer of racial profiling,
12 excessive force, the judge -- the defendant's lawyer can
13 make a motion and ask for all this potential negative
14 information that they may be able to use to defend the
15 bad guy. Right? My understanding is that the
16 department would turn over anything that might be
17 relevant to the inquiry. If somebody accuses an officer
18 of being racist or excessive force, things the judge
19 gets to see, if he thinks those are relevant, the guy
20 gets to potentially use those to show that the cop is a
21 bad guy versus a credible guy. Is that your
22 understanding of what the Pitchess process is for?

23 A. Yes.

24 Q. And if I'm understanding, it sounds like it's
25 your understanding that some of the information that

1 should lawfully be turned over to criminal defendants
2 wasn't getting done?

3 A. That's correct. The files in that informal
4 resolution cabinet were not being turned over.

5 Q. To your understanding, how long did this go on
6 for?

7 A. I don't know when it started. I only know when
8 I discovered it, when Sergeant Potts showed me the
9 cabinet.

10 Q. So that was somewhere around maybe 2015?

11 A. It was between 2015 and whenever Sergeant Potts
12 promoted to lieutenant. He was in that office at the
13 time he showed it to me. I couldn't even tell you the
14 exact month or year. It was just sometime while he was
15 the internal affairs sergeant.

16 Q. And up to the time you left in mid-2019, you
17 don't have any knowledge of them stopping that practice
18 of having the alternative cabinet?

19 A. I'm not aware of it, no.

20 Q. Who do you know as far as people that were in
21 the room and in the conversations about the cabinet, who
22 else knew about that?

23 A. I only had my conversation with Sergeant Potts,
24 so I don't know who else would have known that that was
25 going on. From what I can recall, I only talked to

1 Potts.

2 Q. And Potts left in what? 2019? 2020?

3 A. I have no idea when he left the department. I
4 stopped keeping track of all of that years ago.

5 Q. When you left, he was still there. Right?

6 A. When I left, he was a patrol lieutenant.

7 Q. When you were having the conversation with
8 Mr. Nyhoff where you were talking about the practice of
9 badge bending, do you remember at that time if you told
10 him about like when you first became aware of badge
11 bending? I mean, was it years before 2019?

12 A. We had had a conversation. I told him when I
13 first learned about it when we were having -- we had a
14 big string of officer-involved shootings. I was a
15 lieutenant at the time. I shared with him that I
16 discovered it then and that I thought the practice had
17 ended, that Chief Bidou and then Captain Horton had put
18 a stop to it, and then I discovered that it had come
19 back in 2019. I don't know if it ever stopped or
20 stopped and started or it just kept going. I have no
21 idea. I wasn't privy to who was involved in badge
22 bending at the time other than the two people I knew
23 about.

24 Q. And that was McCarthy and McMahon?

25 A. Yes. There's two McCarthys. So it's Joseph

1 (Recess.)

2 Q BY MS. NOLD: So we're back on the record. The
3 same rules still apply. You're still under oath.

4 Before we left for the break, we had talked a
5 little bit about the badge bending and when you became
6 aware of the initial -- had an initial awareness. Do
7 you remember at that time, was there any compilation of
8 creating or having a policy to explicitly prohibit
9 officers from bending their badges?

10 A. If you're referring to back in 2014 when I
11 first learned about it, no. It was simply a
12 conversation between Chief Bidou and Captain Lee Horton
13 that I was in the hallway with where he simply told
14 Captain Horton to deal with it.

15 Q. But at that point to what your understanding
16 was in 2019, you just assumed it had been dealt with?

17 A. Yes. I was a lieutenant at the time. Back
18 then I didn't question my captain or my chief.

19 Q. It was above your pay grade. Right?

20 A. Yes. At that time I was an administrative
21 patrol sergeant. I didn't deal with issues like that.
22 It was just something I was made aware, passed it on to
23 my supervisor, and hoped it would be handled correctly.

24 Q. When you talked earlier about your letting
25 Chief Bidou know that you were expressing interest in

1 key terms like "hostile work environment" and things of
2 that nature.

3 Q. Outside of Lee Horton, had you ever had any of
4 those sort of complaints filed against you prior?

5 A. No, never.

6 Q. Did you have any concerns related to
7 recruitment and hiring of Vallejo police officers?

8 A. I felt some of the backgrounds that were coming
9 through, there were issues in them, and I thought we
10 should pass on certain employees who back then were
11 hired. But I wasn't the ultimate decision-maker. I
12 would give my opinion to the chief and then he would
13 make the ultimate decision whether or not a person would
14 pass backgrounds and be sent on to psychological exams
15 and medical exams for final hiring.

16 Q. So fair to say there were things that raised
17 red flags for you but that didn't raise red flags for
18 people above you?

19 A. We had issues that I felt were dishonesty. I'm
20 trying to remember some of the background issues. A lot
21 of them were just dishonesty in the process. Not
22 disclosing certain things in their backgrounds and then
23 they were discovered on polygraph examinations. And I
24 felt like if they're already being dishonest at this
25 point in their careers before even getting started, I

1 didn't think it was a good idea to get started with
2 them. And usually in the process we tell them to be
3 completely 100 percent honest. There are so many things
4 now that when I started, you couldn't get in law
5 enforcement and now you can. So just be honest because
6 that's the biggest part of our job. If you hide
7 something or are dishonest or anything like that, then
8 it causes you issues later in your career.

9 Some of the backgrounds came through with
10 things that I felt like they weren't the ideal
11 candidate. I thought it better to not hire anybody than
12 hire somebody for the wrong reasons and have issues with
13 them later in their career and after a year you're
14 pretty much stuck with them unless they do something
15 that rises to the level that you terminate them or they
16 leave on their own.

17 Q. Were you ever aware of any other issues related
18 to hiring? For example, officers that were being hired
19 with test scores that wouldn't allow them to be hired
20 elsewhere?

21 MS. CRAWFORD: Calls for speculation. Vague.

22 THE WITNESS: I don't think there was necessarily
23 test scores. Or entry-level officers that we had had,
24 that we had hired to send to the academy were usually
25 our cadets or explorers, so we didn't have to worry

1 read it?

2 A. As I sit here today, I can't think of anything
3 off the top of my head. It's been almost six years
4 since I've worked there.

5 Q. Fair enough. If there's something that might
6 refresh your recollection or anything, let me know if
7 there's anything that pops up. I know there was a lot.

8 Do you remember a time when -- you're familiar
9 with the local reporters, local TV, like ABC, NBC, the
10 local affiliates. Right?

11 A. Yes.

12 Q. So like in the Bay Area. And we have ABC7.
13 Right? And there's a reporter named Dan Noyes. He's a
14 news guy. Years ago, it's understanding from command
15 staff members, told this reporter on the record
16 something they knew to be untrue about an internal
17 affairs investigation being completed for an incident
18 related to Steve Darden where he was essentially
19 punching a crime victim named Blake Robles. Do you know
20 the incident I'm talking about?

21 A. Yes, I'm familiar with that.

22 Q. So it was kind of an embarrassing incident,
23 went on the news, made everybody look kind of like
24 jerks. Right?

25 A. Yes.

1 Q. At the time somebody leaked a video of the
2 incident with Mr. Robles and leaked it to the media and
3 that came out in the media unbeknownst to the department
4 without any notice. Is that how you remember that
5 happening?

6 A. Yes.

7 Q. And so then there were media people kind of
8 crawling around, asking questions, because it was, as I
9 recall, pretty concerning for the community because this
10 was a guy who was a crime victim who seemed like he had
11 been a victim of excessive force, and people wanted to
12 know what happened and what was being done about it. Is
13 that fair to say?

14 A. Yes.

15 Q. And it's my understanding that Lee Horton and
16 others told the media on the record -- there's videos
17 and transcripts of this -- that they were doing an
18 internal affairs investigation into that incident with
19 Darden, that they were doing interviews and they were
20 taking it very seriously. Is it your understanding that
21 they actually didn't take it seriously, that they
22 laughed about that incident and they never IA'd it? Do
23 you have any knowledge of that?

24 MS. CRAWFORD: Objection. Calls for speculation.
25 Assumes facts not in evidence. Vague.

1 THE WITNESS: It's a two-part answer. As far as the
2 investigation, I was told that the investigation that
3 was conducted wasn't into Sergeant Darden. Or he was
4 Officer Darden at the time. It was into discovering who
5 released the video to the media.

6 And the second part of your question of people
7 laughing at briefing, yes, that occurred at the time.
8 The video was played in briefing and people laughed
9 about it.

10 Q BY MS. NOLD: My understanding, despite telling
11 the public that the department took it seriously, the
12 department didn't take it seriously at all. Right?

13 MS. CRAWFORD: Objection. Vague. Calls for
14 speculation.

15 THE WITNESS: I don't believe they did. The
16 investigation wasn't into the actual act. It was into
17 trying to determine who leaked it.

18 Q BY MS. NOLD: They were more concerned about
19 the whistleblower than Steve Darden taking a guy, leg
20 sweeping him, pushing him backwards onto his head on the
21 ground and kneeled on his chest. That wasn't the
22 concern. They were looking to figure out who had leaked
23 or whistle blew that action to the media?

24 MS. CRAWFORD: Same objections.

25 THE WITNESS: That was my understanding after

1 talking to chief Joseph Kreins about the incident.

2 Q BY MS. NOLD: What do you recall about the
3 conversation with Chief Kreins?

4 A. Chief Kreins said that they -- that Captain --
5 he was, I believe, a lieutenant at the time -- Lee
6 Horton was conducting an investigation. It was
7 determined that he was looking into who leaked the video
8 versus the actual incident itself. I believe the
9 incident, from the time it occurred to the time that it
10 was released in the news, it was over a year. So at
11 that point even if they determined Officer Darden had
12 done anything wrong, that it wouldn't have been able to
13 be -- he would not have been disciplined as a result
14 because it had exceeded the 12-month statute of
15 limitations established by POBAR.

16 Q. Do you know if they ever found the leak?

17 A. The person who leaked it?

18 Q. Yes.

19 A. Yes.

20 Q. And who was it?

21 A. It was an admin analyst who has long since
22 retired named Craig Flater. It was explained to me by
23 Chief Kreins. Captain Horton was never told that it was
24 Craig Flater who had leaked the video because
25 Chief Kreins was scared that he would tell Steve Darden,

1 asked did I know who did it and was I ever told who did
2 it. So I just kept it to myself.

3 Q. When you say Darden sort of has a reputation,
4 it's kind of more than a reputation. Right? He has
5 been involved with five or six shootings. Right?
6 Officer-involved shootings, some high number like that?

7 A. I think that's accurate. He had a very high
8 number of shootings but also a lot of complaints from
9 coworkers. I know coworkers who left the department
10 because when he became supervisor, they just couldn't
11 work for him anymore. I had several officers in my
12 office. One I remember pretty distinctly being so
13 upset, she just wanted to quit that day.

14 So a lot of different incidents with him, anger
15 management issues. Since the day I started there, I saw
16 things. And it's just something that -- I believe he's
17 in his mid-50s now. Hopefully he grew out of it, but
18 he's always had issues of being angry and violent. And
19 I think Lee Horton described him perfectly as saying
20 he's like a bull in a china shop. He doesn't know when
21 to stop.

22 Q. Fair to say the Vallejo police never tried to
23 stop him either?

24 MS. CRAWFORD: Objection. Vague. Speculation.

25 THE WITNESS: There was internal affairs

1 investigations I was aware of. But I don't think they
2 put the right effort in to do it. He had to go to anger
3 management back in 2019 for an incident. But other than
4 that, I just think it was a lot of informal discussions
5 with him.

6 And I know I had one discussion with him when I
7 was a captain. And I supervised him for a year, and we
8 would talk and try to keep him under control. But,
9 yeah, I don't know what to say. It was never, in my
10 opinion, addressed correctly and he just got promoted.
11 A lot of times a lot of departments will do that. They
12 will promote what they call their problem children with
13 the hopes that they will either correct themselves or
14 they're off the streets and issues with them don't
15 happen.

16 Q BY MS. NOLD: Fair to say you're less likely as
17 a sergeant, lieutenant, captain, whatever, to get
18 involved in shootings because you're not actually in the
19 mix that directly. Right?

20 A. That's correct. Lieutenants are usually in the
21 office. Very rarely in the streets unless it's a
22 critical incident. Sergeants are out on the streets a
23 little bit more for the city of Vallejo. Or at least
24 they were when I was there. But as far as -- yeah, they
25 should be less involved in regular calls for service.

1 Q. Usually lieutenants, sergeants, they aren't
2 there. They come afterwards, but they're usually not
3 there getting licks in.

4 A. Yeah.

5 MS. CRAWFORD: Wait. Was that a question?

6 MS. NOLD: Let me just strike that last part of the
7 question.

8 Q. Mr. Whitney, you mentioned informal resolution.
9 Can you tell me, what would be the difference between an
10 informal resolution and a formal IA? What would that
11 look like?

12 A. The formal IA, typically you had a member of
13 the community -- or I'm sorry. A formal complaint would
14 involve a member of the community who was calling and
15 wanting to know what the resolution was, trying to find
16 out what was going on. And so that eliminated the
17 chance of it being informal.

18 The other side of complaints is the internal
19 affairs, which it's an IA, which is separate. A lot of
20 people put the two of them together, but a citizen
21 complaint and an IA are separate, yet they're handled
22 the exact same way. It's just how they're numbered.

23 And an IA is generated from the department. So
24 usually an internal affairs investigation,
25 self-generated, they would always find a resolution or a

1 finding. And then the citizen complaint that the member
2 of the community continued to follow up on, those would
3 typically have a finding.

4 Informal resolutions came about when a member
5 of the community would file a complaint and then they
6 would not follow up on it. Sometimes they would be
7 assigned out to sergeants instead of internal affairs
8 handling it and the sergeants didn't follow up on them.
9 They just put them in a desk drawer and waited the 12
10 months, or they would call them once, no answer, and
11 then they would just interview the officer really quick,
12 make an informal finding, and it would go in the
13 informal finding filing cabinet. So it wasn't like --
14 it's almost like an incomplete IA or something that
15 members of the community didn't follow up on. But back
16 then I think there was a practice from the ACLU to
17 follow up on them after a year. So I was trying to make
18 sure that we did them all exactly the same so when
19 somebody came a year later, we wouldn't be in a bad
20 position of we didn't actually do the internal affairs
21 investigation or the citizen complaint.

22 Q. So the goal was to keep them from timing out
23 before the one year and nothing could be done about it.
24 Right?

25 A. Yes. If they time out after a year, you can't

1 do anything other than during the pandemic, I think they
2 added six more months to it to make it an 18-month time
3 period. And I'm not aware -- I'm pretty sure that went
4 away, but I don't know for sure. But the timing prior
5 to the pandemic when I worked there was one year.

6 Q. And was it your understanding that it would be
7 on hold or freeze in time if there was any officers
8 being sued related to it? Were you aware of that?

9 A. I was not aware that they would stop the
10 timing. It's my understanding that once the department
11 is aware of the issue or the complaint has been filed or
12 the internal affairs issue has been discovered, you have
13 one year from that date to conduct the investigation and
14 a finding answer of discipline on the member of the
15 department during that time period.

16 Q. So you don't recall ever being in training
17 where the exceptions to that rule is if somebody has a
18 civil litigation pending -- I'm not asking you whether
19 that's true or false. I'm just saying you never
20 received that part of the information to know that you
21 actually had much longer than a year in cases where
22 there's pending litigation?

23 A. No. I wasn't aware of that, no.

24 Q. Were you ever responsible for creating press
25 releases related to critical incidents related to

1 Vallejo Police Department?

2 MS. CRAWFORD: Vague as to time.

3 THE WITNESS: As a lieutenant and captain,
4 occasionally I would do certain press releases that I
5 was more involved in than the public information
6 officer. Typically the PIO would handle those things,
7 but sometimes I would write them based on what I knew
8 about the incident.

9 Q BY MS. NOLD: Are you ever aware of something
10 happening in your presence of anybody intentionally
11 putting information in press releases that they knew to
12 be untrue at the time it was published?

13 A. Not that I can recall today.

14 Q. Nothing stands out?

15 A. No. Not right now, no.

16 Q. And you were never asked to, for example, you
17 know, an incident happened, an unarmed person was shot,
18 you were never asked to put out a press release that
19 that person was, I don't know, armed with a knife and
20 stabbing somebody? Nothing like that that you knew at
21 the time wasn't true?

22 A. No, I was never asked to do that.

23 Q. When did the city start using the IAPro
24 software?

25 MS. CRAWFORD: Calls for speculation.

1 THE WITNESS: I know that we were doing it in 2015
2 when I was a captain in professional standards. I don't
3 know when they started using it to begin with.

4 Now that I think about it, when I was a
5 sergeant in 2007, they were using it. I think it was
6 called -- I don't know if it was called IAPro back then.
7 I don't know exactly because back then there was
8 different portions of it. You could have like the 148
9 arrest section tracking, a 647 tracking system, and the
10 use-of-force tracking system. I know they were using
11 that in '07 and '08 when I was a sergeant. I don't know
12 what it turned into over the years or when they actually
13 started using it.

14 Q BY MS. NOLD: And it's my understanding that
15 there was a time they would have been using a different
16 version of it, IAPro2. Is it your understanding they
17 did ever use a different version of it or do you know
18 that much?

19 A. I don't know the difference between version 1
20 and 2. I just know what tracking they were using
21 because they would let the sergeants know at the end of
22 the year "Hey, you have an officer who has done this
23 many 148 arrests and the average on your team is this."
24 Or I believe a big part of it back then was Taser usage
25 and they kept track of who had the most tasings in the

1 city, No. 2, No. 3, and so you would look to see if it
2 was one of your officers. Then you could determine they
3 need to go back to training or they're just involved in
4 more incidents or maybe they just need some lessons on
5 how to talk with people and not Tase as many people.

6 Q. And did you ever have an opportunity to review
7 the IA entries while you were working? Not make them
8 but review the ones that had been made by others?

9 MS. CRAWFORD: Vague as to time.

10 THE WITNESS: When I was the captain on professional
11 standards and was shown the entries on one or two
12 officers. I never watched anybody enter it, and I never
13 entered it myself. So I know that entries were made and
14 I had access to the system. I just never actually
15 watched anybody do it or make entries myself.

16 Q BY MS. NOLD: Did you ever review -- you said
17 you reviewed a couple. Did you ever actually review,
18 skim through it, for example?

19 A. I reviewed one officer's -- I guess it would be
20 their -- it was a printout of all the entries made, and
21 I just kind of had questions on if the entries were a
22 little vague on what was going on or they were
23 one-sentence or two-sentence entries back then and I
24 thought they should have a little more detail so
25 somebody who has no idea of what they're actually

1 reading can get a better understanding of what that
2 internal affairs was or that citizen's complaint entry
3 was.

4 Q. And I've reviewed lots and lots of entries now
5 in the IA system and a lot of the entries were missing
6 substantive information. The officer's name, the
7 victim's name, the date, you know. Like you said, what
8 happened. Some of the things I know who the people are
9 because they're my clients and things like that. But
10 the system has whatever the person who entered it
11 decided to put in there. You made the observation that
12 some of those things don't give enough context to
13 actually understand what the entry was about. Right?

14 A. Correct.

15 Q. Do you recall seeing entries where there were
16 incidents or hearing about entries where there were
17 incidents involving known command staff members who
18 weren't named although they knew at the time who the
19 officer was who was involved in the incident?

20 MS. CRAWFORD: Objection. Vague.

21 THE WITNESS: I only -- I reviewed two officers'
22 printouts, and they were, in my opinion, not very
23 detailed. And sometimes when I knew what something was,
24 I was like where's witness officers' names here or
25 people who were involved or there was a little bit more

1 to this. So I just felt like the entries weren't very
2 detailed. But I didn't review every one. I only
3 reviewed two of them.

4 Q BY MS. NOLD: And correct me if I'm wrong. The
5 omissions or errors, these weren't like high-level
6 things. Right? These were things where there was like
7 boxes to put in information and there wasn't information
8 or there was too little information put in to actually
9 understand unless you have some kind of personal
10 knowledge what the incident was. Right?

11 A. The detail sections were very vague. And
12 usually the citizen complaint or the IA number was there
13 and sometimes there was witness officers. Sometimes
14 there wasn't. I think it's whoever was making the
15 entries, it was their decision.

16 Q. But you weren't one of these people making the
17 entries. Right? Just that you observed that with your
18 own eyes on those two that you reviewed?

19 A. Yes. I didn't believe the entries were as
20 detailed as they should have been.

21 Q. And do you remember who those officers were,
22 the two that you reviewed?

23 A. Yes. One of them was my file, because I was
24 going to a Pitchess for myself and, as the officer, sat
25 in the chambers with the judge. And the other one was

1 Steve Darden.

2 Q. It's my understanding that Darden had, up until
3 the time that you were there, roughly 43, 44 entries of
4 various complaints, things like that. Does that number
5 sound accurate to you?

6 MS. CRAWFORD: Calls for speculation.

7 THE WITNESS: I can't remember how many entries. I
8 just remember it was probably more than 50 pages that I
9 was handed to review.

10 Q BY MS. NOLD: Fair enough. And obviously you
11 weren't counting them. Right?

12 A. No.

13 Q. But you recall a voluminous amount. You
14 believe at least 50 pages of documents?

15 A. At least 50 pages.

16 Q. Is this 50 pages of IAPro printout?

17 A. Yes.

18 Q. And is it your understanding that IAPro
19 printouts individually are what? No more than two pages
20 per entry?

21 A. I don't know exactly how many pages one entry
22 takes. It's been a long time since I looked at one.

23 Q. Fair enough. And you know, I don't know.
24 Sometimes people just have things in their head, just
25 memories of different things.

1 So you have no idea whether there was an IAPro
2 entry related to Ms. Jenkins?

3 A. No. I have no idea.

4 Q. Based on what the department had been doing
5 prior to that, would you assume that there was?

6 MS. CRAWFORD: Objection. Calls for speculation.
7 Vague.

8 THE WITNESS: There should have been. I don't know
9 if there was one or not.

10 Q BY MS. NOLD: That's what I was driving at.
11 There should have been, but you can't say one way or
12 another because you weren't there much longer after?

13 A. Correct.

14 Q. Can you tell me about the rumor between the
15 Vallejo Police Officer Association and Chief Bidou
16 related to not investigating incidents of misconduct?

17 MS. CRAWFORD: Objection. Vague. Not proportional
18 to the needs of the litigation. Calls for speculation.

19 THE WITNESS: It wasn't so much as far as an
20 agreement when it comes to investigating general use of
21 force. The agreement told to me by Chief Bidou was that
22 we would not use body cameras to initiate an
23 investigation should it be discovered through a review
24 that an officer used force. Or if there was any
25 misconduct, that the cameras would not be used for

1 initiating an internal affairs investigation. I am not
2 aware of anything in general of a use-of-force agreement
3 between the union and Chief Bidou.

4 Q BY MS. NOLD: Okay. It's your understanding
5 it's specific to how body worn camera footage would be
6 used as evidence of misconduct, and your understanding
7 is it wouldn't be used as evidence of misconduct at that
8 time?

9 A. It would not be used to initiate an internal
10 affairs investigation based on camera footage reviewed
11 by a supervisor.

12 Q. So as long as somebody from the outside
13 reported it, it could in theory be used, but if it was
14 just through internal review, through use-of-force
15 review, things like that, that those things wouldn't
16 result in a disciplinary investigation?

17 A. They wouldn't result in starting an
18 investigation.

19 Q. And when he told you about that agreement, do
20 you remember about when that was? Do you remember what
21 year that was?

22 A. It was during an incident -- trying to remember
23 the two officers' names. Lieutenant Cheatham, Steve
24 Cheatham, had received a phone call from
25 San Francisco PD in regards to domestic violence that

1 Q. And then did you turn in your gun and badge?

2 A. They took my gun and badge from me when I was
3 placed on administrative leave. They took my captain's
4 car and gun, badge, and ID. And they detained me for
5 several hours. They served me with paperwork saying I
6 had no peace officer powers and I had to be available
7 Monday through Friday. I had to call in daily to clear
8 whatever I was going to do that day with the chief's
9 secretary or administrative assistant. And I was pretty
10 much stuck at home and not allowed to contact anybody at
11 the police department or the city. I could not go to
12 any city building, communicate with anybody in the city
13 for any reason. And then to the point where they tried
14 to restrict my movements to attend an awards ceremony up
15 at POST. It went to the night before finally getting
16 approved to go to this awards ceremony.

17 So from May 22, served with the IA, and then
18 shortly after that on admin leave, and then pretty much
19 on house arrest until Chief Joseph Allio released me
20 from having to do that.

21 Q. I understand it was a pretty hard time for you?

22 A. Oh, very much so. We made a lot of family and
23 life changes in order to -- I knew what was happening
24 and I knew what they were going to do, and so we were
25 making arrangements for everything, including

1 interviewing for jobs at other agencies and jobs with
2 companies outside of law enforcement.

3 Q. At the time did you have concerns that you were
4 going to be blackballed?

5 MS. CRAWFORD: Objection. Vague. Argumentative.

6 THE WITNESS: I had a lot of concerns about that.
7 And most of them came true. Emails were sent to my next
8 employer, and I would receive phone calls from agencies
9 saying "Hey, we were interested, but we receive a phone
10 call with details about you and we just can't move
11 forward with you at this time." Several agencies,
12 Contra Costa agencies and Napa County and Yolo County
13 that I was in the process of trying to get hired and was
14 just either given reasons that didn't match my resume
15 why I wasn't hired or at least the ones who were honest
16 that said they received phone calls or they had talked
17 to people at the Vallejo Police Department that told
18 them reasons not to hire me. So I was struggling to get
19 employment after that.

20 Q BY MS. NOLD: You did eventually get back into
21 law enforcement in the Bay Area. Right?

22 A. Yes. I was hired by the El Cerrito Police
23 Department.

24 Q. Are you still working there?

25 A. No. I retired last -- it was officially March

1 of '24 I officially retired.

2 Q. Got in enough of your years to be able to
3 retire?

4 A. I had meant to go to 55, but I suffered a
5 significant injury that required surgery. It was an
6 injury that they wanted to do a surgery and I refused,
7 and as a result I was forced to retire.

8 Q. What rank did you retire as?

9 A. I was an officer.

10 Q. So you spent what? 29 years?

11 A. I think it was -- yeah, it would be 29. One of
12 the agencies wasn't PERS, so I always forget to count
13 it. But it was about 29 years.

14 Q. 29 years, you worked yourself up from the
15 bottom up to the second in command, which was
16 essentially stripped from you, and essentially you
17 retired as a low ranking member of a different agency.
18 Are you bitter about that?

19 A. Not anymore. I mean, I was for a long time
20 every time I put on my patrol officer's uniform. But my
21 lawsuit settled and I moved on in both career and life
22 and trying to put the city of Vallejo behind me, which
23 it's been behind me for several years until a couple
24 weeks ago.

25 Q. I'm sorry that we're having to drag you back

1 through this. I know the last deposition was difficult.
2 I know this is difficult. So I appreciate you sitting
3 through something that you could have just probably
4 figured out a way to wiggle out of. So we appreciate
5 that.

6 When you testified before, you talked about
7 some things that happened after you whistle blew, which
8 included some incidents where you felt like you had been
9 intimidated. And one of the incidents you talked about
10 was related to Steve Darden. Could you remind me about
11 the circumstances with Mr. Darden after the whistle
12 blowing in May or April of 2019?

13 MS. CRAWFORD: Objection. Vague. Not proportional
14 to the needs of the litigation.

15 Go ahead.

16 THE WITNESS: So I had left city of Vallejo and I
17 was working for El Cerrito at the time, and I was in the
18 gym. We both worked out at the same gym. And I
19 remember distinctly I was doing the elliptical with this
20 senior citizen gentleman. We always somehow ended up on
21 the elliptical together. And I looked across the gym
22 and saw Steve staring at me. And I ignored it and
23 looked down, and the gentleman next to me pointed it out
24 and said "Hey, that guy is staring at you. Do you know
25 who that guy is?" And I explained to him "Yeah, he's a

1 police officer with the city of Vallejo." And he said
2 "Well, you shouldn't have to put up with that." He
3 wanted to go to the front counter with me to report that
4 this person wouldn't stop staring at me. And I said
5 "No, you don't want to get involved in this."

6 So I grabbed my stuff and was getting ready to
7 leave, and he met me in the hallway right outside the
8 locker room as I was leaving and just stared at me,
9 scowled at me as I was walking by him. And we didn't
10 have any conversation, but at that point I decided to go
11 ahead and end my gym membership because I go to the gym
12 to relax and enjoy myself, not to be bullied and
13 intimidated by a thug that has a badge.

14 Q BY MS. NOLD: Would it be fair to say that
15 Mr. Darden, his physical presence and scowl would be
16 enough to cause you some fear?

17 A. Yes. And he knew where I lived and he knew my
18 wife. And so, I mean, I didn't feel safe, so I thought
19 the best thing for me to do was end my gym membership.

20 And then at that point my wife and I pretty
21 much stayed in our house. We didn't go and do anything
22 around town or go to dinner anymore because we didn't
23 want to run into him.

24 Q. Was there any time during that period of time
25 where you noticed that you were being surveilled or

1 followed? Did anything like that occur?

2 A. We had --

3 MS. CRAWFORD: What is the time frame? You said
4 period of time, Counsel. I missed the time frame we're
5 talking about.

6 MS. NOLD: Sure.

7 Q. During 2019, after you left. After you whistle
8 blew.

9 MS. CRAWFORD: Thank you.

10 THE WITNESS: We had set up cameras at our house
11 that mainly poked out into our porch. And we lived in
12 an HOA community which was on the outskirts of town.
13 You really have no reason to go up there unless you know
14 somebody. And we would get cars that would pull up in
15 front of our house and sit for a little bit and then
16 drive away at all hours. So that was concerning. All
17 our neighbors knew what was going on and all had
18 cameras. And then we had a license plate reader
19 installed in the neighborhood.

20 So I think after the license plate reader was
21 out there and everybody could see it and you couldn't
22 get in the neighborhood without passing it, that's when
23 things slowed down for us. But we had a lot of people
24 coming by our house. So that's when we had installed a
25 few more cameras and made sure everything was being

1 recorded and shared. That way, if anything happened,
2 somebody would at least have an investigative lead to
3 start with.

4 Q BY MS. NOLD: At the time did you have concerns
5 that somebody from the department or somebody in
6 retaliation for what you had disclosed was going to
7 cause you physical harm or kill you?

8 A. I was concerned. Up to that point in my career
9 I actually didn't carry a gun off duty. Just never felt
10 the need. And from that point on I was carrying a gun
11 anytime I was anywhere in the city or going to and from
12 work. So I was worried. And just I didn't know what
13 they were going to do next.

14 I had a very horrible letter sent to my house,
15 and then I had email sent to my chief of police from the
16 union president at the time and, from what the chief of
17 police at El Cerrito told me, a lot of inquiries into
18 what I was doing, PRA requests that he chose not to
19 share with me and people trying to figure out what I was
20 doing and what I was doing at the police department.

21 Q. You talked about it before. I know this was
22 difficult, the deposition where we talked about the
23 letter that you received. And from my recollection, it
24 had some references to your wife, some personal things
25 that would have been potentially embarrassing, personal

1 in nature, and things that you believed that that
2 personal information, that that was being received by
3 you because of the whistle blowing. Right?

4 A. Oh, very much so. They had referred to things
5 that not a lot of people would know about. But
6 everything they wrote about my wife was not true. It
7 was simply a letter I think just to bully and intimidate
8 and threaten her and to try to keep me from pursuing my
9 lawsuits. And I think everybody at the police
10 department knew I was very close with my family, and I
11 think they were just trying to cause harm to my family.

12 So the letter was turned over to my attorney.
13 I moved forward from it, but it's something I'll never
14 forget. But the first thing they wrote, they put some
15 specific details in there that led me to believe who it
16 was.

17 Q. Who do you think it was?

18 A. Based on the reference to people who worked at
19 the courthouse and certain procedures and supervisors, I
20 believe it was Jason Potts, because his wife worked at
21 the courthouse where my wife worked and it referred to
22 certain people that unless you worked in the courthouse,
23 even attorneys wouldn't know who these people are. And
24 then there was a word he liked to use. He had a word he
25 liked to use all the time and he used it in the letter.

1 And I can't remember what it is as I sit here right now.
2 "Salacious" was the word. That was his favorite word.
3 He used it almost daily. And so he used it in there
4 describing things about my wife. But then he referred
5 to certain people that only his wife would know who they
6 are.

7 Q. Do you still live in California? I don't want
8 you to tell me where you live. I'm just asking do you
9 still live in California?

10 A. Yes, I still live in California.

11 Q. Do you intend to stay in California or do you
12 plan to locate someplace where you feel safer?

13 A. We recently were served at our house by
14 somebody representing the city of Vallejo. And I know
15 there's -- where we live now has gotten out. And my
16 house is actually not in my name, so how they found us
17 is an interesting puzzle.

18 We have been discussing leaving the state, but
19 we're afraid that wherever we go, that the city of
20 Vallejo's never going to leave us alone. So we have
21 taken certain security measures here at this house in
22 order to protect ourselves. And so just in case
23 somebody decides they want to come this far out to find
24 us, we will be protected and it will all be memorialized
25 in video.

1 Q. Fair to say it's hard to see yourself safe from
2 the police?

3 MS. CRAWFORD: Vague. Argumentative. Assumes
4 facts. Not proportional to the needs of litigation.

5 Go ahead.

6 THE WITNESS: The police department has tools that
7 they can use to find our addresses, such as TLO and
8 Lexus Nexus. They don't have to use CLETS if they don't
9 want to. So they pay for these services. So to hide
10 from the police is not possible. I have hoped over the
11 years that some of these officers grow up or get over it
12 and move on in life, but I don't know what's going to
13 happen.

14 Q BY MS. NOLD: Still waiting?

15 A. I think I'll be waiting a while.

16 Q. Other than you, do you know anybody who was
17 intimidated or deterred from trying to disclose
18 misconduct or do anything that you would consider to be
19 a variety of whistle blowing?

20 MS. CRAWFORD: Compound. Calls for speculation.
21 Vague.

22 THE WITNESS: I know of two things. One I think was
23 just in the newspaper. Not the newspaper. On the
24 internet a week or two ago. One of the former deputy
25 chiefs -- I think I only read a paragraph of it, but it

1 was something similar, that he was trying to report
2 wrongdoing and he was terminated for whistle blowing.

3 And then the only other form of intimidation I
4 knew of is I believe the young lady's name is a Lisa
5 Sadler, if I remember her correctly, and that she was at
6 some club in the city of Suisun and said that an officer
7 had come up and intimidated her in the club about a
8 lawsuit or a complaint that she had filed against the
9 city of Vallejo.

10 Q. As you sit here, that's what comes to mind?

11 A. Those are the two I can think of as I sit here
12 right now.

13 Q. Do you know if anybody ever investigated the
14 allegations from Ms. Sadler that she was confronted by a
15 Vallejo police officer at a bar and they threatened her?
16 Do you remember if that was ever investigated?

17 A. I don't know if it was investigated or not
18 properly.

19 Q. But you didn't have any direct interaction with
20 that investigation. Right?

21 A. No, I did not.

22 Q. You just recall that incident from something
23 you had become aware of involving Ms. Sadler?

24 A. The only part of that investigation I know of
25 is that an investigator went to the club to try to pull

1 video. And that's the only thing I know about it.

2 Q. The incident where Mr. Darden intimidated you,
3 what gym were you at?

4 A. I believe it's -- I think it was still called
5 the same. It's In-Shape, Browns Valley. I think it's
6 called like In-Shape at Browns Valley or something like
7 that. It's on Browns Parkway in the city of Vacaville.

8 Q. There's not a Vallejo gym that the department
9 used at any point recently. Right?

10 A. Recently I'm not aware of. I know they had a
11 gym out at Mare Island that used to be a firehouse
12 but -- I think it's turned back into a firehouse, but I
13 don't know. I haven't been on Mare Island in six, seven
14 years.

15 Q. Okay. While you were working for Vallejo
16 Police Department, did you ever see or discover anything
17 that you wanted to report but didn't report because you
18 were afraid?

19 MS. CRAWFORD: Objection. Vague.

20 THE WITNESS: I think pretty much everything that I
21 thought should have been reported or investigated, I did
22 report. And I think that's why I ended up in the
23 position I'm in.

24 Q BY MS. NOLD: Okay. Fair enough. And so
25 anything that you were aware of, you did report or

1 attempt, at least, to report?

2 A. Everything that I believe I thought was wrong
3 or needed to be investigated, I reported to my
4 supervisor, whether it was Captain Horton when I was a
5 lieutenant or Chief Bidou when I was a captain.

6 Q. When you testified in the McCoy matter, you
7 mentioned specifically an incident involving Mr. Michael
8 Nichelini and a man named Carlos Yescas. Do you know
9 what incident I'm talking about?

10 A. Yes, actually. I recall something similar.
11 Now I remember that.

12 Q. And as I understand it, that was how
13 Mr. Nichelini became aware of who the reporter Otis
14 Taylor was, that he later became aware of Mr. Taylor
15 writing an article. I believe -- sorry. Go ahead.

16 A. Sorry. I don't know when Mr. Nichelini knew
17 who Otis Taylor was. That's when I first heard that
18 name and learned who he was.

19 Q. Fair enough. We don't know when Mr. Nichelini
20 read the article or got that information.

21 A. I'm not aware. I don't keep in contact with
22 him.

23 Q. Yeah. You guys weren't friends, to my
24 understanding. Right?

25 A. We were coworkers. I was a supervisor for

1 Patzer.

2 Q. Was there a Jason Patzer that worked there that
3 you recall?

4 A. I heard that name. I don't believe he's a
5 police officer. I believe there's maybe a firefighter
6 by that name. I don't know if they're all related,
7 though. There is a Patzer family from Vallejo. So I
8 don't know. I know there's a lot of different members,
9 though.

10 Q. So Jeremy was the former officer who is
11 Jordon's dad, and that would be on his legacy badge,
12 would be Jeremy's number in small?

13 A. Yes.

14 Q. That person doesn't have to be deceased.
15 Correct?

16 A. No, not at all.

17 Q. Do you remember a time when Chief Bidou was
18 trying to get Kelly Trujillo to come in and sit for the
19 critical incident reviews and attempt to make them
20 attorney-client privileged as opposed to publicly
21 releasable public documents?

22 MS. CRAWFORD: Objection. Calls for speculation.
23 Vague.

24 THE WITNESS: No. That was an actual technique that
25 was used to involve Mrs. Trujillo in everything. Not

1 just those meetings but emails and text group messages.
2 And if you removed her for any reason, he would make
3 sure he added her back in. I tested it a couple times
4 by removing her and seeing what would happen, and he
5 would put her right back into the messages. I believe
6 it was right around 2018, 2019 that that practice
7 started.

8 Q BY MS. NOLD: An incident review is something
9 that once it's completed, it's publicly releasable.
10 Right?

11 A. I'm not aware of the PRA laws. I believe so,
12 but I don't know.

13 Q. I don't expect you to be an expert in things
14 you don't do or didn't do. And obviously the law may be
15 different now than it was at the time when you were
16 looking at it. But it wasn't just your understanding.
17 They actually engaged in the practice of trying to
18 involve the city attorney's office, specifically
19 Ms. Trujillo, who is now sitting on the bench in Solano
20 County, to use her presence to try to make things
21 attorney-client privileged that would not have been
22 otherwise?

23 MS. CRAWFORD: Objection. Calls for speculation.

24 THE WITNESS: No. It was specifically talked about
25 that we needed to leave her in everything so everything

1 was attorney-client privileged and could never be
2 publicly released.

3 Q BY MS. NOLD: And she was on the emails and in
4 the meetings, so she was compliant to the extent that
5 she was there, she was attempting to make those
6 privileged. Right, to your understanding?

7 MS. CRAWFORD: Calls for speculation.

8 THE WITNESS: I don't know what her thought process
9 was. But all I know is we were told to make sure that
10 any emails or texts that we sent to each other, that she
11 was either in the email group or she was in the text
12 group. We always had to make sure to add her.

13 Q BY MS. NOLD: And did Ms. Trujillo or anyone
14 else from that office ever direct you to destroy
15 evidence or conceal records in evidence?

16 MS. CRAWFORD: I'll object to the extent there is
17 any communication with Ms. Trujillo and she was the
18 assistant city attorney, so it would be privileged.

19 Q BY MS. NOLD: I'm asking for things that
20 wouldn't be privileged which are things that would be
21 criminal in nature. Asking you to do something that you
22 knew or you believed you weren't supposed to do. That
23 would be something like hiding evidence, concealing
24 something. So not anything where you were having a
25 privileged conversation. But if you were discussing

1 something like concealing records, that is ongoing and
2 that would not be subject to attorney-client privilege.
3 So anything like that that wouldn't be subject based on
4 you knowing it was wrong or illegal at the time or
5 believing it might be wrong or illegal at the time.

6 A. Not that I can think of as I sit here today.

7 Q. You mentioned earlier when you talked about
8 legacy badges, Herman Robinson. Is he still working for
9 the police department?

10 A. Yes, he is. He is still a lieutenant with the
11 police department.

12 Q. He's been there what? 48, 40-something, high
13 40s, almost 50 years?

14 A. I believe he was sworn in in the neighborhood
15 of 52, 53 years in his career between the city of
16 Vallejo and Berkeley Police Department.

17 Q. That's where he started?

18 A. Yes. In fact, he started at Vallejo PD in
19 September of 1973. So 52 years he's been with -- he's
20 coming up on 52 years. So it's 51 right now with the
21 police department.

22 Q. Are you guys friends?

23 A. Yes, we are.

24 Q. That seemed so specific to know when he was
25 there.

1 You maintain a relationship with Mr. Robinson?

2 A. We had for a while. We're still friends.

3 Don't take that as we're not. He had realized that I
4 didn't want to talk about the city of Vallejo anymore
5 and he felt that communicating with him reminded me of
6 the city. So we went somewhere in the neighborhood of
7 almost five, six months where we didn't talk, and then
8 he sent me some birthday wishes and we talked for a
9 little bit that week.

10 Q. Been a while since you had a talk?

11 A. We talked about a month ago. But prior to that
12 it had been almost six months. You know, no texting
13 other than he sent me a text to let me know that a judge
14 had passed away that I knew. Other than that, we really
15 didn't have any communication since before Christmas of
16 last year.

17 Q. Did Mr. Robinson, Lieutenant Robinson ever
18 share with you being the victim of anti-black
19 discrimination when he worked for the Vallejo Police
20 Department?

21 MS. CRAWFORD: Objection. Not proportional to the
22 needs of litigation. Calls for speculation. Vague.

23 THE WITNESS: Yes. Lieutenant Robinson and
24 I, especially when I was a lieutenant and captain, we
25 had hours' long conversations in regards to just being

1 friends and our lives. But a lot of the conversations
2 he did talk about was his coming into law enforcement
3 and how he was mistreated and called racial slurs, even
4 by supervisors and somebody that I was -- I guess they
5 were family friends. And he talked about how this had
6 happened to him and a lot of the things that he faced
7 over his career. He was a sitting sergeant for 27 years
8 and couldn't promote to lieutenant despite having a
9 bachelor's degree from UC Berkeley and being very hard
10 working. And that really soured him, and rightfully so.
11 And I think he went almost 47 years and never received a
12 single medal from the Vallejo Police Department in his
13 entire career. Never any kind of award or nothing. No
14 recognition at all for all of his time there.

15 So being one of his close friends, I did what I
16 could to remedy that for him. I believe it was in 2019.

17 Q. Was that the parking spot?

18 A. Yes. I don't know if the picture is still on
19 his Facebook, but there's a picture of the two of us for
20 his parking spot. We used to have another employee park
21 there named Katie Hoetes. She had like 53 years with
22 the city, so we got her a parking spot. So Ms. Hoetes
23 passed away, and I thought it was only fitting that the
24 next senior member of the city receive that spot. So he
25 got that parking spot and I nominated him for officer of

1 this officer continues to have collisions with the
2 department vehicles. I know that one would stay in
3 there. So I didn't want to leave my answer incorrect.
4 And I'm sorry I stepped on your last question.

5 Q. Oh, no. I think you ended up answering. I
6 don't know what you know, so we have to kind of figure
7 out what you know during this deposition.

8 Did you ever work with Colin Eaton?

9 A. I didn't work with him. I was one of his
10 academy instructors. I think that's when I had my most
11 interaction with him. And then he was hired, but I
12 didn't really have any -- other than seeing him in the
13 hallway, I didn't -- typically an officer would not come
14 into a captain's office in any way whatsoever unless
15 there was something really wrong going on. I might say
16 hi to him in the hallway or see him in briefings when I
17 would go to briefings, but I didn't, like, work with
18 him.

19 Q. Based on your knowledge, up until the day that
20 you reviewed the incident with Ms. Jenkins, you didn't
21 have any knowledge or concerns or anything that you
22 personally had with Mr. Eaton?

23 A. Actually, yes. There were two incidents that
24 caused me concern that we had asked investigations to be
25 conducted on, and to my knowledge they were never done.

1 Q. And those are incidents related specifically to
2 Mr. Eaton?

3 A. Yes.

4 Q. And were these incidents that occurred before
5 the incident with Ms. Jenkins or afterwards or do you
6 know?

7 A. I believe they both occurred prior.

8 Q. And do you recall what those incidents were?

9 A. One was at Springstowne Center -- I don't know
10 if it's still called that -- on Springs Road. It was
11 where they had the Islands marketplace. You're probably
12 familiar with that. And then there's a small bank
13 terminal in the parking lot and an ATM machine. And
14 there was a gentleman who was sitting in his car and
15 watching people going to and from the terminal, and then
16 Officer Eaton was watching him. And once everybody was
17 done, he was getting ready to get out of his car. He
18 was contacted by Officer Eaton. And he was reaching for
19 something in his car, and he was dragged out of his car
20 when he started to reach for something. It was later
21 discovered that the gentleman was actually reaching for
22 his prosthetic leg in order to put it on and to walk to
23 the ATM machine. And force was used to pull him out of
24 the car, and then it was discovered that he had a
25 prosthetic leg. And so then that information was passed

1 on to me by the lieutenant.

2 Q. Do you remember what lieutenant passed that on?

3 A. Yeah. It was Lieutenant Herman Robinson.

4 Q. Did Officer Robinson -- or Lieutenant Robinson.

5 Excuse me. Did he observe that happening or did

6 somebody report it to him or do you know?

7 A. It was my understanding from talking to him, if
8 I recall correctly -- he could probably tell you the
9 story better than me -- that he had gone to the scene
10 and was -- he was very angry on how this gentleman was
11 treated. The gentleman was black, and obviously
12 Lieutenant Robinson is as well. He didn't believe the
13 gentleman was treated fairly, and that just a little
14 discussion could have mitigated that. If he said "What
15 are you reaching for?" and he said "My leg so I can
16 walk, get out of the car," that it could have been
17 handled differently. And Lieutenant Robinson was very
18 angry about that.

19 Q. Correct me if I'm wrong. It sounds like you're
20 saying that Lieutenant Robinson thought there might be a
21 racial motivation to it?

22 MS. CRAWFORD: Calls for speculation. Vague.

23 THE WITNESS: Lieutenant Robinson I don't believe
24 said anything like that, but he made a point to tell me
25 that the gentleman was black.

1 Q BY MS. NOLD: And do you remember what the
2 other incident was?

3 A. Yes. It occurred at the 7-Eleven on Tennessee
4 Street. I think it's Tennessee and Tuolumne. I don't
5 know if it's still there. It was at 1208 Tennessee.
6 And there was a woman who pulled into a handicap parking
7 spot. She did not have her placard. I don't know if
8 she actually was issued one or used one. And she got
9 out of her car. She was contacted by Officer Eaton. He
10 demanded her ID. And this is according to
11 Lieutenant Robinson who was the watch commander that
12 night. Demanded her ID. She refused and simply said
13 "Write my car a ticket." And I don't know what happened
14 in the middle, but she was taken into custody. And
15 Lieutenant Robinson went out to the scene to try to
16 figure out what was going on. I cannot recall if she
17 was actually arrested or what the final outcome was.

18 Q. Both of those were incidents that you thought
19 would or should be investigated. Right?

20 A. I believe so. It showed a pattern. The woman
21 was an older black female. And they were very close in
22 time. And it again caused Lieutenant Robinson concern
23 on what Officer Eaton was doing and how he was
24 communicating with people.

25 Q. And both of those incidents were incidents that

1 you became aware of because of Lieutenant Robinson's
2 concerns and sharing those concerns with you?

3 A. Yes. Lieutenant Robinson would typically write
4 a very detailed memo in regards to these, and then he
5 would make copies and throw them in everybody's mailbox.
6 Or to correct myself, he would throw them in mailboxes
7 of people who could deal with internal affairs --
8 sergeant, lieutenants, the captains and chief of police.
9 He didn't throw them in everyone's mailbox.

10 Q. So for clarity, it wasn't that he was creating
11 a mailer and distributing it. He was putting it in the
12 mailboxes of people he thought could do something about
13 it?

14 A. That would deal with it.

15 Q. Yeah. The appropriate people to send those
16 things to and not the staff of the department?

17 A. Correct.

18 Q. Do you remember members of the Tribble family
19 who worked for the Vallejo Police Department?

20 A. My understanding, it was just the two. Robert
21 Gordon Tribble, who went by the name Todd Tribble. And
22 then Michael Kent Tribble, who went by the name of Kent.

23 Q. Did you ever work with one of their sons that
24 was with the department, I believe? It may have been
25 after you left. I'm not sure.

1 prostitutes, and she found out about it and essentially
2 reported it to the department, something like that?

3 MS. CRAWFORD: Speculation. Vague. Not
4 proportional to the needs of the litigation.

5 THE WITNESS: I don't know the details of the
6 investigation. It's my understanding that that portion
7 of his investigation took place before I actually worked
8 there. Other parts of his investigation took place
9 while we were working together.

10 Q BY MS. NOLD: But that was investigated, to
11 your understanding. Right?

12 MS. CRAWFORD: Same objection.

13 THE WITNESS: My understanding was the there was an
14 investigation. But I was a brand-new officer. Had no
15 involvement with that whatsoever.

16 Q BY MS. NOLD: It was above your pay grade at
17 the time. Correct?

18 A. Well above.

19 Q. Have you had any meetings or conversations
20 about terminating Sean Kenney?

21 A. No. There was no conversations about actually
22 terminating him. It was more where to put him to cause
23 the least amount of issues.

24 Q. Was this before or after he shot and killed
25 three men in a five-month period?

1 MS. CRAWFORD: Objection. Not proportional to the
2 needs of litigation. Vague. Calls for speculation.

3 THE WITNESS: It was afterwards.

4 Q BY MS. NOLD: Fair to say the department was
5 concerned about the amount of officer-involved shootings
6 he had been in in a very short period of time?

7 A. Yeah. There was a lot of concern with
8 Officer Kenney, both the shootings and just his general
9 behavior.

10 Q. He was never terminated. Correct?

11 A. No. He took a medical retirement when he left
12 the department, so technically he was retired.

13 Q. Did you personally observe any racist comments
14 made by Matt Mustard?

15 MS. CRAWFORD: Objection. Vague.

16 THE WITNESS: No, I didn't. I'm trying to think. I
17 can't recall as I sit here today, no.

18 Q BY MS. NOLD: Were you ever aware of comments
19 that you didn't hear where it was alleged that
20 Mr. Mustard had used racial slurs?

21 MS. CRAWFORD: Objection. Vague, calls for
22 speculation, and disproportional to the needs of the
23 litigation.

24 THE WITNESS: Yes, I was made aware of comments that
25 Detective Mustard -- or Sergeant Mustard at the time had

1 made towards his coworker Corporal Jason Scott.

2 Q BY MS. NOLD: And did that happen while you
3 were still there?

4 A. No. I was told about it after.

5 Q. You heard about that after you separated from
6 the department. Is that correct?

7 A. Yes. Corporal Scott and I had done things away
8 from work after I had left the department, and he had
9 told me what was going on.

10 Q. So Detective Scott himself had disclosed what
11 happened?

12 A. Yes.

13 Q. It's my understanding that Detective Scott
14 was -- is an African-American man and he was working in
15 the detective division at the time it happened. Was
16 that your understanding?

17 A. Yes. I put him in there permanently at the
18 start of 2019 as the detective corporal.

19 Q. Was he the principal detective for the Vallejo
20 Police Department?

21 A. No, he was not.

22 Q. Do you know if he was the first black detective
23 for the department?

24 A. I don't know --

25 MS. CRAWFORD: Calls for speculation.

1 THE WITNESS: I don't know who the first black
2 detective was. I know Steve Darden was a detective at
3 one time and -- oh, I forgot. There was another
4 detective in there at the same time. Oh, no. He was a
5 little bit after Scott.

6 Q BY MS. NOLD: Was it your understanding from --
7 well, tell me what Corporal Scott told you what happened
8 with Mr. Mustard.

9 MS. CRAWFORD: Same objections.

10 THE WITNESS: He told me that Sergeant Mustard
11 referred to him as "boy" at work and kind of talked
12 about that he was there working late on a case and
13 Corporal Scott had gone out and bought pizzas for
14 everybody who was working late because it was on his
15 case. He brought the pizzas into the conference room
16 and that Matt Mustard had told him he couldn't eat
17 anything and referred to him as "boy" and told him he
18 didn't care if there was only scraps left when he got
19 done but he had to write the search warrant before he
20 was allowed to eat.

21 Q BY MS. NOLD: Was it your understanding from
22 Detective Scott that he filed some sort of a formal
23 grievance related to being called "boy" and other
24 comments he considered to be racist in nature?

25 A. Yes, he did file a complaint, from what I know.

1 Q. Was it your understanding from him that after
2 filing the complaint, the city didn't do anything about
3 it and that he left as a result?

4 MS. CRAWFORD: Objection. Calls for speculation.
5 Not proportional to the litigation. Vague.

6 THE WITNESS: He told me he was leaving because they
7 wouldn't -- even after somewhat of an investigation was
8 conducted, he wanted to just go someplace else. He
9 didn't want to be mistreated when he came to work, so he
10 chose to go work for another agency. Because even after
11 everything was discovered, Sergeant Mustard was still a
12 supervisor and increasing his frequency going to his
13 office at the property evidence section.

14 Q BY MS. NOLD: You're saying Mustard was
15 increasing his contact with Scott after that?

16 A. According to Corporal Scott, yes.

17 Q. Other than that incident, can you think of
18 anything offhand, incidents where you observed
19 Sergeant Mustard acting in a way that you deemed
20 inappropriate?

21 MS. CRAWFORD: Objection. Vague.

22 THE WITNESS: There's a few incidents. I remember
23 we were both working patrol. And it was a while ago.
24 Probably 2003, 2002 time. And we went to a house party
25 and we were trying to -- there was a vacant house, and

1 Q. No, that's fine.

2 And Scott still chose to leave because he
3 didn't believe that the issue had been resolved. Right?

4 MS. CRAWFORD: Calls for speculation. Misstates
5 testimony.

6 THE WITNESS: The conversations that I had with
7 Corporal Scott following my departure and subsequently
8 working for another agency was that the second I had
9 been placed on administrative leave, things changed and
10 he felt like he wasn't protected anymore, and so he
11 filed his complaint. He actually called me and asked me
12 how you file a complaint. He didn't want to do it
13 because he thought it would be a career ender for him,
14 but he said he couldn't take it anymore.

15 I told him how to do it and to make sure it
16 doesn't get swept under the rug, or hope it doesn't.
17 And he did file a complaint. I know some investigation
18 was conducted. I don't know what the findings were or
19 any discipline, if any. But he said even after that he
20 was still working for Sergeant Mustard. He felt like
21 nothing had changed, and so he decided he was going to
22 leave the police department and seek employment
23 elsewhere.

24 Q BY MS. NOLD: And it's my understanding that he
25 did leave. Correct?

1 A. Yes. He works for another agency. Or he did.
2 I don't know if he is still there now. We haven't kept
3 in contact over the past few years.

4 Q. Is it your understanding that Detective Mustard
5 wanted to keep black officers out of the detective
6 bureau?

7 MS. CRAWFORD: Objection. Calls for speculation.
8 Vague. Not proportional to the needs of the litigation.
9 Go ahead.

10 THE WITNESS: I don't know if it was that or he
11 simply did not like Corporal Scott.

12 There was another black officer working in
13 investigations at the time that I just recalled.

14 Q BY MS. NOLD: Do you know who that was offhand?

15 A. His first name is Craig. And I worked with him
16 a lot.

17 Q. Long?

18 A. Craig Long, yes. Craig Long was the detective
19 working in there. He was brand-new. I believe he was
20 brand-new in January, the same time I put Corporal Scott
21 in there. I don't believe Detective Long is with the
22 department anymore.

23 Q. I don't think so.

24 Were you ever made aware after you left that --
25 strike that question.

1 A. I don't believe the car stop in January of 2019
2 was ever properly investigated.

3 Q. When you say that, you mean Carlos Yescas?

4 A. Yes. Other than that, as I sit here right now,
5 I can't think of anything that should have been
6 investigated that wasn't in regards to Michael
7 Nichelini.

8 Q. What about were you ever aware of something
9 concerning Officer Schillinger who wasn't -- that was
10 brought to your attention?

11 MS. CRAWFORD: Objection. Vague. Calls for
12 speculation. Not proportional to the needs of the
13 litigation.

14 THE WITNESS: The things that involved
15 Detective Schillinger took place I believe after I had
16 left.

17 Q BY MS. NOLD: And you're referring to him, my
18 understanding, being put on leave for lying in
19 relationship to the incident with Jason Scott and Matt
20 Mustard, something like that?

21 MS. CRAWFORD: Same objections.

22 THE WITNESS: I don't know about the dishonesty
23 portion. The only part I know from Corporal Scott is
24 that Detective Schillinger drove by Jason Scott's home,
25 which is well outside of the city of Vallejo or Solano

1 County, on a day when Officer Scott had called in sick.
2 And he saw him drive by his house and wanted -- asked
3 me, having no longer worked there, if it's proper for
4 somebody to drive by an officer's house who calls in
5 sick to verify they're and go probably nearly an hour
6 and ten minutes outside of Vallejo's jurisdiction to do
7 it.

8 So I told him I don't know the answer to that
9 and he would have to -- if he needed to file a complaint
10 or do something, personnel would have to deal with that.

11 Q BY MS. NOLD: Is that something -- you were no
12 longer working for the city of Vallejo. Right?

13 A. I was no longer working for the city. He would
14 just ask me questions on how to deal with things.

15 Q. During the time that you were working there,
16 were the Vallejo police officers using -- I don't know
17 how to describe it. Words they were using were
18 alternatives to racial slurs? One of those terms is the
19 word "spoonies." Have you ever heard that in reference
20 to black people?

21 A. I have heard the term "spoon." I haven't heard
22 "spoonies." But "spoon" was a comment that I had
23 learned early on working there. And it made no sense to
24 me, but it was just something that they would say.

25 Q. Was that in reference to black people

1 tennis with the chief of police that even if the chief
2 is taking you to go play tennis, it doesn't mean that
3 you can just not do your duties during that time. We
4 don't get to just go play tennis or whatever we want
5 during our day that we're supposed to be doing our job.

6 Other than that, just I always worried about
7 his level of experience when he would be put into
8 certain positions and how well he had performed.

9 Q BY MS. NOLD: Did anything particular stand out
10 in your mind, situations where his lack of experience
11 were highlighted?

12 MS. CRAWFORD: Same objections.

13 THE WITNESS: I think putting him in internal
14 affairs when he really didn't have the experience in
15 conducting those types of investigations was not the
16 greatest idea. I felt like there were other candidates
17 at the time who would have done a better job and maybe
18 were less connected to the chief of police.

19 Q BY MS. NOLD: Were you aware of concerns
20 related to the superior court where there were certain
21 judges that wouldn't let certain officers appear in
22 their courtrooms? Are you familiar with what I'm
23 talking about?

24 MS. CRAWFORD: Objection. Vague. Calls for
25 speculation.

1 THE WITNESS: I'm only aware of one judge who was
2 adamant an officer not testify in her courtroom.

3 Q BY MS. NOLD: Do you know who that is?

4 A. It was Judge Ramona Garrett.

5 Q. Was it Officer Jason Potts?

6 A. No. It was my understanding it was
7 Officer Steve Darden.

8 Q. Do you know what the circumstances were that
9 led her to make that proclamation?

10 A. She had reviewed the video of Officer Darden
11 striking -- I can't remember the name. The soldier on
12 video that ended up on the news and that his police
13 report did not match what he had -- what he wrote did
14 not match what was in the video. And she felt he was
15 dishonest and she did not want him testifying in her
16 courtroom ever again.

17 Q. She thought he had or was going to perjure
18 himself?

19 MS. CRAWFORD: Calls for speculation.

20 THE WITNESS: She just -- my understanding was she
21 did not want him in the courtroom because she felt his
22 report was not honest. I don't recall anything about
23 perjury or anything like that.

24 Q BY MS. NOLD: Do you remember I believe it was
25 the same judge not allowing Jason Potts in the courtroom

1 because she heard an audio of him using the "N" word in
2 relationship to a car stop and wouldn't allow him in a
3 courtroom after that?

4 A. I have never heard of that, no.

5 Q. Outside the conversations that you had with
6 Jason Potts about the Pitchess cabinet, the informal
7 resolution cabinet, have you ever had a conversation
8 about those distinctions in internal affairs with
9 anybody else that was in internal affairs besides Jason
10 Potts?

11 A. No. I simply took my concerns for all of that
12 to the chief of police.

13 Q. Because at that point there was nobody above
14 you on the food chain besides the chief of police.
15 Right? You didn't have a direct supervisor outside of
16 the chief. Right?

17 A. Correct.

18 Q. So that was the proper chain of command when
19 you did that. Right?

20 A. Yes.

21 Q. Is it frowned upon when you jump the chain of
22 command? For example, if you're an officer and you
23 don't talk to the sergeant or lieutenant and you go talk
24 to the chief, that would be considered inappropriate.
25 Right?

1 Right? You saw a guy was bleeding out and you helped
2 him out, and you're supposed to do that. Right?

3 A. That's what we're trained to do.

4 Q. You didn't feel like you did anything
5 exceptional?

6 A. No. He was shot and bleeding, and it was my
7 job to hold my hand on his wound until the ambulance
8 showed up.

9 Q. When you talked to Officer Bull about the Tili
10 shooting, did he ever express any concerns about what
11 Officer Crutcher had done that day or anything about his
12 concerns about whether it was a bad shooting?

13 MS. CRAWFORD: Same objections.

14 THE WITNESS: No. We didn't really have
15 conversations about that.

16 Q BY MS. NOLD: More exclusive to his feeling bad
17 about the connection to the family and however that
18 impacted him internally?

19 A. Yes. That was pretty much it.

20 Q. Does the name Enrique Jimenez sound familiar to
21 you?

22 A. It does sound familiar to me. I believe he was
23 a homicide victim in the city of Vallejo, if I'm
24 remembering correctly.

25 Q. Yeah, he was. You didn't investigate that

1 shooting, did you?

2 A. I was the -- I believe I was the secondary on
3 that. Ted Postolaki was the detective in charge if it
4 was the one that took place in the old Yardbirds parking
5 log next to the old -- I'm guessing it's old Howard
6 Johnson's if it's still there off of Admiral Callaghan.
7 So Detective Postolaki was primary, and I was
8 Detective Postolaki's partner at the time, so I helped
9 him with the investigation.

10 Q. So you were one of the detectives?

11 A. Yes. The initial detectives that went to the
12 scene, yes.

13 Q. Were you present when they brought in two
14 brothers who were suspected of killing Mr. Jimenez?

15 MS. CRAWFORD: Same objections.

16 THE WITNESS: Yes, I was.

17 Q BY MS. NOLD: And that was Daniel and Daryl
18 Venegas?

19 A. I remember they were brothers and last name
20 Venegas. The first names sound familiar. I can't be
21 100 percent sure that's them. Close, though. I want to
22 say that's correct, but I'm not 100 percent sure.

23 Q. You understood them to be brothers?

24 A. Yes.

25 Q. Were you in the room when they were being

1 interrogated?

2 MS. CRAWFORD: Same objections.

3 THE WITNESS: Yes, I was in the room during their
4 interrogation or interview.

5 Q BY MS. NOLD: Were they in the room together?

6 MS. CRAWFORD: Same objections.

7 THE WITNESS: I don't believe so. That would not be
8 proper in any way.

9 Q BY MS. NOLD: It would not make sense.
10 Correct?

11 A. No. And I would not have wanted that. You
12 never interview people together because then they do
13 this story collaboration thing and it's not their
14 statement. It's like a group statement.

15 Q. Because the goal is to separate people out and
16 find out what they individually know and then try to
17 figure out what actually happened based on everybody's
18 different perspectives. Right?

19 A. Correct.

20 Q. While the men that were suspected of killing
21 Enrique Jimenez were in the interview room, did they
22 mention something about a relationship that their mother
23 had with Steven Darden?

24 MS. CRAWFORD: Same objections.

25 THE WITNESS: Yes, they did.

1 Q BY MS. NOLD: You know what I'm talking about,
2 don't you?

3 A. I do now, yes.

4 Q. And please correct me if I'm wrong. Obviously
5 I wasn't there. Based on the information that -- based
6 on this interaction -- I know you're not the person who
7 told me. Right? But it's my understanding that
8 Mr. Jimenez was killed on the 100 block of Admiral
9 Callaghan. I think you said it used to be a Yardbird.
10 He was in the parking lot waiting for a ride, like going
11 to work, waiting for somebody to pick him up at, like,
12 5:00 o'clock in the morning, and allegedly these two
13 brothers who had a beef with him from some prior gang
14 affiliation years ago or whatever the underlying thing
15 was, that they saw him there and went up and killed him
16 over some old beef. It was known that they had a beef,
17 that they bragged about killing him and, when they were
18 brought in as suspects, that they said something to the
19 effect of "You've got to let us go because we know about
20 Steve Darden stealing time and having an affair" and
21 doing all these things that they were trying to use as
22 leverage to try to get themselves out of being suspects
23 in a murder investigation. Is that your understanding
24 of what happened?

25 MS. CRAWFORD: Objection. Assumes facts. Calls for

1 speculation. Not proportional.

2 THE WITNESS: That is correct.

3 Q BY MS. NOLD: And as a result of the
4 information that they provided, which included the name
5 of the woman that Mr. Darden was allegedly involved
6 with, alleged that at times when he was supposed to be
7 working, that he would come to Vallejo and park his car
8 and then go spend time with this woman while out on sick
9 leave. Is that your understanding of what they
10 disclosed?

11 A. They didn't disclose exactly that. It's just
12 they had disclosed that he was having an affair with
13 their mother. The other side of it was discovered later
14 through informal investigation.

15 Q. Okay. They provided the information that he
16 was at the house. Right? And then through some manner
17 of investigation, it was determined that he was using
18 sick leave during the times that the brothers had said
19 he was at their house. Is that correct?

20 A. That's correct.

21 Q. And then at the time when that information came
22 into the interview, that Jason Potts or somebody else in
23 the interview ceased the interview and stopped it. Is
24 that accurate?

25 A. It was not Jason Potts who stopped the

1 interview.

2 Q. Charles Bartlett?

3 A. His name was Kevin Bartlett. He was our
4 sergeant at the time.

5 Q. Kevin Bartlett. Okay. Thank you. Was there
6 also a Charles Bartlett, Officer Charles Bartlett that
7 you recall?

8 A. If there was, he was there for a brief minute.
9 We hired some officers that only lasted maybe a month
10 and didn't like the agency and went back to their former
11 agencies. I don't know if that was one of those
12 officers. But I never worked with a Charles Bartlett
13 that I know of.

14 Q. But you identified the person in that interview
15 with those suspects was an Officer Kevin Bartlett,
16 Detective Kevin Bartlett?

17 A. Yeah. He was the detective sergeant. Myself
18 and Detective Postolaki, Ted Postolaki were conducting
19 the interview, and we were stopped by Detective Sergeant
20 Kevin Bartlett.

21 Q. Stopped the interview and let the suspects go.
22 Right?

23 A. Yes. And then our DVD at the interview was
24 seized by Detective Bartlett.

25 Q. Seized and destroyed, to your understanding?

1 MS. CRAWFORD: Calls for speculation.

2 THE WITNESS: I don't know what happened to it. We
3 never got it back.

4 Q BY MS. NOLD: To my understanding, it sounds
5 like somebody tried to get an IA or get -- you know,
6 reported it, trying to get somebody to look into what
7 happened, but Lee Horton put Darden out on a 12-week
8 FMLA and said it would violate his HIPAA rights to do an
9 IA. Does that sound right?

10 MS. CRAWFORD: Calls for speculation. Vague. Not
11 proportional.

12 THE WITNESS: By the time everything had come out, I
13 was back to being a patrol sergeant because we had come
14 out of bankruptcy. So I was repromoted to sergeant.
15 And I inquired about it because Officer Darden again
16 worked for me. And I was told that he was being placed
17 on this 12-week FMLA leave and that no IA was to take
18 place; that it was being handled by Horton himself who
19 was the lieutenant of professional standards at the
20 time. So that was my last involvement in it.

21 Q BY MS. NOLD: Did you ever consider reporting
22 that to anybody?

23 A. I was a sergeant at the time, and the
24 environment at Vallejo, if I had reported that, I would
25 have been looking for a new job in 2011, 2012, not in

1 2019. So until I became a captain and really saw how
2 much was not being reported is until I really started
3 doing things. But you just didn't do that. It was in
4 the environment and the culture. And had I reported it,
5 my career would have been over and it would have been
6 bad. Just as bad as it was in 2019. You just didn't do
7 it.

8 I made my inquiries, and that was the end of
9 it. I suspected that our lieutenant at the time who
10 then became captain might actually do something with it,
11 but never ever happened.

12 Q BY MS. NOLD: Who was that?

13 A. Ken Weaver was our detective lieutenant. And
14 shortly thereafter he was promoted to captain when Joe
15 Kreins became our chief. And I figured he would do
16 something with it. And I never heard anything after
17 that.

18 Q. As far as we know, the two people that killed
19 Mr. Jimenez are still -- I mean, locally they're still
20 around. As far as you know, there was never an
21 investigation to confirm whether or not those two men
22 killed Mr. Jimenez?

23 MS. CRAWFORD: Objection. Assumes facts. Misstates
24 testimony. Vague. Calls for speculation.

25 THE WITNESS: At that point myself and

1 Detective Postolaki didn't know how to move forward. We
2 had interviewed another witness that we hoped would
3 actually put them there, and they were reluctant to
4 cooperate. And so we were kind of stuck at that point
5 because we couldn't move forward. We didn't know what
6 was going on on the outside. We were both officers at
7 the time. We had both been demoted as a result of
8 bankruptcy and were back in detectives. So we had no --
9 there was nothing we could do. We moved on to our next
10 case because we were told not to talk about it and we
11 left it at that.

12 Q BY MS. NOLD: With respect to you, the reason
13 why is you were afraid. Right?

14 A. Oh, yeah. It's just there were so many things
15 that went on at that police department. You know, I
16 still had little kids and a family and I had to provide
17 for my family and I didn't want any issues. I certainly
18 didn't want to go back to patrol and not have anybody
19 cover me in a traffic stop. So you did what you had to
20 do to survive that place.

21 MS. NOLD: Let me take a five. I think I have a
22 couple more questions. I just want to do a quick
23 review.

24 (Recess.)

25 Q BY MS. NOLD: Okay, Mr. Whitney. You're still

1 under oath. The same admonishments still apply.

2 I just want to make sure I have clarity on
3 everybody who was in the room on the day that the
4 suspects were brought in related to the murder of
5 Enrique Jimenez. You, yourself, you were in the room.
6 Ted Postolaki. Kevin Bartlett. Jason Potts. Was Lee
7 Horton in the room as well?

8 A. So in the actual room was one of the Venegas
9 brothers, myself, and Ted Postolaki. Everybody else
10 would have been in another room watching through a video
11 feed. Nobody else was in the room with us. It was our
12 case. It was our interview. And so if anybody is
13 watching, they would have been in another room.

14 Q. Thank you for the clarity. So you two were in
15 the room, but other people were able to observe, listen
16 and see what was happening in real time basically?

17 A. Yes. There was camera systems set up inside
18 the police department where you could watch an
19 interview. Also if you enter in -- it's like a very
20 old-school way of doing it, but you enter these codes
21 into a program and then you can watch on a computer
22 whether you were at the police department or not. So
23 you could watch the interview if you wanted to.

24 Q. So in theory, a supervisor could be at home and
25 checking in to see what was going on, logging into the

1 system to do that?

2 A. I don't know if back then you could do it from
3 home. I believe you had to be at a terminal in the city
4 of Vallejo. It was like a program that was on the
5 desktop back then. It wasn't like a -- I don't think
6 Zoom was a thing back then or what the technology behind
7 Zoom is now. But there was a program that you could log
8 in. It was like a hit or miss thing. But I don't think
9 you could do it from home.

10 Q. Okay. But it's your understanding that someone
11 in the same building -- there were others there
12 observing?

13 A. I'm only aware of Detective Sergeant Bartlett.
14 I can't recall Potts or Horton being part of that. I
15 just can't remember that far back.

16 Q. Okay. It was your understanding that Horton
17 had some involvement in the IA side of it. Right? In
18 the aftermath?

19 A. The part I know about was that -- because Steve
20 Darden worked for me when all of this took place. Was
21 that he went out on a 12-week FMLA time off and that no
22 IA was going to take place and no further discussion on
23 why he was out on FMLA would take place because it fell
24 under HIPAA guidelines. And that was pretty much the
25 end of it.

1 Q. Is it your understanding prior to -- I don't
2 know if it was before or after the interview. Like, for
3 example, the department searched the house of the
4 victim, for example. Like they did a search warrant.
5 Right? They ransacked the refrigerator of the guy who
6 got killed. Were you involved in that portion of it as
7 far as, like, you know, getting warrants? You know what
8 I'm talking about?

9 A. Yes. That exact comment just refreshed my
10 memory that yes, Jason Potts was very much part of the
11 investigation.

12 I went to the house to -- the victim's house to
13 secure it from the inside while we waited for a search
14 warrant. And yes, that's the one that Jason Potts
15 helped himself to corn dogs in the freezer because he
16 was hungry.

17 Q. So you were there?

18 A. Yes. He was there. As soon as you talked
19 about securing the house, I recalled that yes, we were
20 both there and he was eating corn dogs out of the
21 victim's freezer.

22 Q. So at the time it probably seemed wildly
23 inappropriate. Right?

24 A. Oh, you don't touch nothing. When you secure a
25 house from the inside, you stand there. You don't touch

1 nothing. You don't move around. You don't look for
2 anything. A search warrant is not there and you don't
3 contaminate anything. If you have to stand in the entry
4 room and stand for four hours, so be it. But you
5 certainly don't go through somebody's freezer and start
6 eating their food.

7 Q. Did that happen before or after the interview
8 of the suspects?

9 A. It happened before. I believe it happened the
10 same day as the homicide because we were called in early
11 for it because, as you said, it did happen in the early
12 morning hours while he was going to work. We were
13 called in for -- it's normal, if not routine, to start
14 with the victim's residence if you have no other
15 evidence at the scene so can you move -- it's called
16 moving backwards in their life. What was the first
17 thing they did before they were killed. And it's they
18 slept at home. So what is there and where do we go from
19 there? So that was our first thing to do. And because
20 Detective Ted Postolaki was primary, he would offer the
21 search warrant for that house. So my job was simply --
22 as the secondary was just to stand there and make sure
23 the scene wasn't disturbed.

24 Q. And that was the thing that stood out to you
25 was Potts eating food out of the refrigerator. Right?

1 A. It was wildly inappropriate to sit and eat
2 somebody else's food who had just been murdered. And it
3 was -- I just remember how it made me feel. You're
4 eating his food. He just died a few hours ago, he was
5 murdered, and you're sitting there eating his food in
6 his kitchen? And I remember him sitting on the couch
7 just eating the corn dog. It was just "What are you
8 doing?" Crazy.

9 Q. It's your understanding that was Mr. Jimenez's
10 mother's house? Do you recall that being his mother's
11 house and she was in custody at the time?

12 A. I can't recall. I know there's another
13 gentleman that lived there, and I don't remember if it
14 was his mom's house or not. It was a long time ago, in
15 2011, I believe. I can't remember.

16 Q. Do you recall from that situation, do you
17 recall there being some existing bad blood between the
18 Jimenez family and the Vallejo Police Department?

19 MS. CRAWFORD: Calls for speculation.

20 THE WITNESS: Not that I can recall.

21 Q BY MS. NOLD: Okay. And obviously things going
22 on, all sorts of things that may have not had anything
23 to do with you that you wouldn't have taken notice of
24 because they were outside of what you were doing?

25 A. Yes. If there were issues, I can't recall

1 Q. And how long did you serve as acting chief when
2 he was out of state?

3 A. He was also the acting fire chief of the city
4 of Vallejo when Chief McArthur retired, and I believe
5 that was like a nine-month period, and the majority of
6 the time he was the acting fire chief, I was the acting
7 police chief. On paper I was the acting police chief.

8 Out of town? I can't give you an exact number.
9 More than six weeks that I know of when he got his
10 vacation home. I want to say it's more, but I'm not
11 sure.

12 Q. You testified earlier that you were the acting
13 chief around April of 2019 when Chief Bidou was out on
14 vacation. Do you remember that?

15 A. Yes.

16 Q. Is that what you're referring to, that he was
17 out for six weeks at that time, or is this something
18 different?

19 A. Oh, no. I'm talking about cumulative time. I
20 think he was only out a couple weeks during that time.
21 But when he bought his vacation home and was getting
22 close to retirement, he was spending more time there.

23 Q. That's quite the vacation. A six-week vacation
24 sounds glorious. I would love to be able to do that.
25 But I understand. It was cumulative time. Thank you.

1 A. Yes.

2 Q. You talked earlier about this file cabinet that
3 was located in -- was it Sergeant Potts's office?
4 Lieutenant Potts?

5 A. It was Sergeant Potts. That's when I first
6 found out about it.

7 Q. And when was that that you first found out
8 about it?

9 A. I couldn't tell you the exact date or even the
10 year. I just know Jason Potts was an internal affairs
11 sergeant at the time. It had to be early during my time
12 as a professional standards captain because I was
13 learning all the different things that go on in
14 professional standards.

15 Q. I think I wrote down May of 2015 was when you
16 became captain of professional standards. So is that
17 around the time you would estimate you first learned
18 about the file cabinet in Sergeant Potts's office?

19 A. I don't know if it would be that exact time.
20 It's so long ago. We're talking ten years ago. I don't
21 think it would have been right of May of '15 but
22 somewhere shortly after that, before Jason Potts
23 promoted to lieutenant.

24 Q. Then what happened with that file cabinet? If
25 he moved on, who was in charge of the file cabinet?

1 A. I have no idea what they ended up doing. I
2 talked to Chief Bidou about it and he said just leave
3 everything as is. And so I knew better back then.
4 Don't rock the boat. Don't question anything. And so I
5 didn't.

6 Q. So you were the captain of professional
7 standards and Sergeant Potts was under you. Correct?

8 A. Yes.

9 Q. Why couldn't you tell him to stop doing it?

10 A. A lot of times what would happen is internal
11 affairs would just go directly to the chief with things.
12 To be honest, when you're working for Chief Bidou, you
13 didn't make that decision. I just told him what was
14 going on and waited for him to provide guidelines, and
15 he said leave everything as is. If I would have ordered
16 all that change, it just would have been changed back.
17 So back then I didn't fight things. I just dealt with
18 it.

19 Q. So after you were captain of professional
20 standards in 2015 and then you said you were doing that
21 until about spring 2018, during that entire time was
22 this file cabinet that you thought contained information
23 that should have been part of potential Pitchess
24 motions, whatnot -- I think you testified earlier that
25 it should have been being provided in different

1 instances. That whole time you were captain of
2 professional standards was it continuing to happen in a
3 way that you believed was improper?

4 A. I don't know if they ever decided to start
5 providing that information. But back then they weren't
6 providing it. So I don't know at what point things
7 changed where they started to provide it.

8 Q. Are you talking about during the window when
9 you were captain?

10 A. Yes.

11 Q. So even though you were captain of the
12 professional standards bureau, you didn't know what they
13 were doing with respect to the informal resolution of
14 file cabinet materials?

15 A. Correct. Jason Potts had a different
16 relationship with Chief Bidou, so if I went and tried to
17 disturb that in any way, it would be done the way that
18 those two wanted it.

19 I would say that my rank of captain was simply
20 by title and not by deed. A lot of the things I wanted
21 to do as captain I wasn't allowed to do. And I knew
22 that.

23 Q. Your understanding about badge bending was that
24 it was related to officer-involved shootings. Correct?

25 A. That's how it was explained to me, yes.

1 Q. Did you understand it to be related to anything
2 else?

3 A. No. At the time it was just strictly
4 officer-involved shootings.

5 Q. Do you have any information to lead you to
6 believe that Officer Eaton was involved in badge
7 bending?

8 A. I have no personal knowledge of that, no.

9 Q. Do you have any information to lead you to
10 believe that Officer Jordon Patzer was involved in badge
11 bending?

12 A. No.

13 Q. You testified earlier about some concerns you
14 had regarding recruitment within the Vallejo Police
15 Department, and you gave an example of you had concerns
16 regarding dishonesty with different applicants.

17 A. Yes.

18 Q. So my question, Mr. Whitney, is how many people
19 did this happen with where they proceeded through the
20 recruitment application process but you had concerns
21 about their fitness to be an officer?

22 A. As I sit here today, I can recall two off the
23 top of my head. There was other ones -- some of them I
24 was able to get them -- actually, now I remember, I was
25 able to talk the chief into disqualifying them from

1 going through the process further. But I remember three
2 distinctly. One, we had offered him a conditional job
3 offer and then eventually he pulled out of the process,
4 which I thought was good for us. But two we had hired.
5 I don't know if they still work there until this day.

6 Q. So you came up with three off the top of your
7 head where you were saying you had a concern about them
8 being dishonest. Correct?

9 A. Yes.

10 Q. Did you have any other concerns about their
11 ability to be police officers?

12 A. I can't even remember the officer's name. I
13 just remember the incident. It was decisions that they
14 made while they were employed with the military. I just
15 didn't think that was someone that we wanted to have
16 employed with our agency because if you did what he did,
17 you wouldn't be a police officer anymore. So I felt
18 like if you're doing that in working for the military,
19 you probably shouldn't be doing it while working for the
20 city of Vallejo.

21 Q. You said you came up with the three off the top
22 of your head. One you offered a job to but then he
23 pulled out. Two you ended up hiring. But you had
24 previously said that you were able to talk to
25 Chief Bidou about not going forward with one of the

1 applicants that you had concerns about?

2 A. Yeah. The one who eventually pulled out of the
3 process, we were trying to come up with an idea of how
4 we could get them to not continue the process. They
5 were given a conditional and scheduled for psych and
6 medical. And I had discovered more information about
7 them, so it was -- we came up with a game plan how I
8 would talk to the candidates in order to see if we could
9 get them to withdraw from the process, which they
10 eventually did. But had they not and they passed their
11 psych and medical, they would be working for us.
12 Because that's how conditional job offers work. Unless
13 something comes out of their psych and medical, you
14 can't stop the process once they pass backgrounds.

15 Q. Regarding Officer Eaton, did you have any
16 concerns about him being hired with the Vallejo Police
17 Department?

18 A. Yes, I did have some concerns. I actually --
19 to give you a full perspective of it, I actually
20 recruited Officer Eaton from the academy because he was
21 performing quite well. But after reviewing his
22 background, I made the suggestion that we not move
23 forward with him.

24 Q. And who did you make the suggestion to?

25 A. I talked to Chief Bidou about it.

1 Q. Did anyone else share your concerns about not
2 going forward with Officer Eaton?

3 A. I can't recall at the time who else. I think I
4 had gotten clarification on one thing with Officer Eaton
5 from someone. And then other than that, I can't recall
6 anybody else being a part of that conversation. Because
7 backgrounds are kept to where it's myself, the
8 background investigator, sometimes the lieutenant of
9 investigations. Or I'm sorry. The lieutenant of
10 professional standards. There wasn't a large group of
11 people who read about this just in case there's
12 something and now they're an officer and there might be
13 something potentially embarrassing to them. Nobody else
14 needs to know about that. But I did discuss it with
15 Chief Bidou. And my recommendation was not to move
16 forward, but his direction was to move forward with him.

17 Q. Did you discuss why he wanted to move forward
18 with Officer Eaton?

19 A. Yes, we did discuss it.

20 Q. What did he say?

21 A. That Officer Eaton was a Marine and Chief Bidou
22 was a Marine and he wants him to move forward.

23 Q. Was that it?

24 A. That was pretty much it. They're both Marines
25 and Officer Eaton is going to move forward and he didn't

1 think the issue was that big a deal. So I get my
2 direction from the chief of police. If he's okay with
3 it, he signs the letter for the conditional job offer.
4 It's not me signing it. I simply handed it over to
5 now -- well, Mr. Eaton at the time, and we moved forward
6 from there.

7 Q. And what were your concerns about his
8 background?

9 A. He had a thing in his background where he
10 had -- while he was a Marine, he had gotten married.
11 And it was done -- he explained it to his background
12 investigator. I'm not going to get the details exact
13 because it's been a long time. But it was something to
14 the effect of he had gotten married to a woman he knew
15 but was in not a real marriage with. And the marriage
16 was so they could get separation money from the military
17 where -- so now you're separated from your spouse. You
18 get so much money per month. And that they were going
19 to split that money. And if I recall correctly, they
20 never lived as husband and wife and they were just
21 strictly friends. That they had gotten married and then
22 he had just left and gone back to whatever he was doing,
23 back to his base, and that was it. That was strictly --
24 what was told to me, it's referred to as a Marine
25 marriage. And I felt that it was dishonest and

1 defrauding the military of funds for legitimately
2 married couples when he simply got married and allowed
3 his -- I don't know if you would even call her his
4 spouse, to collect this money after he gets deployed.

5 So that was my only concern was that it struck
6 me as dishonesty and fraud to the Marines and kind of an
7 elaborate plan in order to obtain funds from the
8 military.

9 Q. So was this something that he disclosed in his
10 background information that he had done this?

11 A. Yes. I remember reading it from the background
12 investigator's reports that he had disclosed this.

13 Q. Did you ever talk to Officer Eaton about this?

14 A. I don't believe I did. So when I saw it --
15 typically the captain doesn't have interactions about
16 things in your background. It's either I pass it on to
17 the chief or I take it to the chief and say "I'm
18 denying. I want to pass on this background for this
19 issue." Sometimes he'd read the backgrounds when I'd
20 say I'm denying it. And then if I said I'm good with
21 this candidate, it would sit on his desk and he'd hand
22 it to me. Sometimes he would just sign off on it and
23 hand it to me. And if I said no, then he'd want to read
24 it. And then he'd sign off on it and say yep, we're
25 moving forward.

1 So we had a discussion about it. He wanted to
2 move forward with Mr. Eaton.

3 Q. Did you have any concerns regarding
4 Officer Jordon Patzer when he was hired by the Vallejo
5 Police Department?

6 A. I did not. I actually worked with his father,
7 and I didn't see the same kind of traits initially in
8 Jordon Patzer. And I never worked with him out on the
9 streets or anything. So I had no concerns with his
10 background or with him.

11 Q. Did you ever work with either Officer Eaton --
12 you just testified about Officer Patzer. But did you
13 ever work with Officer Eaton out on the streets?

14 A. I don't believe so. I was a captain. If I
15 went out on the street, it meant something really bad
16 happened. Usually a multiple-victim homicide or an
17 officer-involved shooting. If I was out there, we
18 weren't interacting. He was doing his job and I was
19 doing mine. So I wouldn't say we worked together.

20 Q. You testified earlier about Lieutenant Steve
21 Darden and said that they typically -- "they," I'm
22 assuming being the Vallejo Police Department -- promote
23 their problem children to get them off the street. Do
24 you recall testifying about that?

25 A. Yes.

1 by, he just was following me with his eyes. And I don't
2 know if you've ever met the man. He's sizable. And so
3 I don't want any problems with him. So that's why I
4 stopped going to the gym.

5 Q. Did you ever report any concerns about feeling
6 intimidated or scared by Steve Darden to anybody?

7 A. My attorney.

8 Q. Anyone at city of Vallejo?

9 A. No. Nothing would happen.

10 Q. Any law enforcement agency at all?

11 A. No, because back then I was the person who
12 whistle blew on the city of Vallejo Police Department.
13 Why would you report it? I was on my own at that point.

14 Q. Any other law enforcement agency? Not just
15 Vallejo PD. I mean any neighboring city.

16 A. Oh, I had talked to the district attorney about
17 several issues going on inside the Vallejo Police
18 Department, none of which were addressed. So me talking
19 to her about Steve Darden being a bully in the gym, that
20 was going to go nowhere. She never holds officers
21 accountable, so I didn't expect her to do a thing.

22 Q. You said after you separated with the city of
23 Vallejo, that you would get cars that would come to your
24 residence and park for a few moments. Do you recall
25 testifying about that?

1 Q. When did the Crutcher incident occur, the one
2 with Tili and Brian Crutcher?

3 A. I don't know the exact date. I want to say
4 either 2000 or 2001. I was very new. So it's been a
5 while.

6 Q. You testified that you routinely did not report
7 things because you were afraid. Do you recall
8 testifying about that?

9 A. Yes.

10 Q. If you were so afraid of reporting things
11 within the Vallejo Police Department, why didn't you
12 leave?

13 A. I was trying to leave. I had applied to
14 several agencies dating back to almost 2010, trying to
15 get out. I had some agencies tell me that "You work for
16 Vallejo and it doesn't have a great reputation."

17 Q. Who told you that?

18 A. It was the recruiter for San Pablo PD. I'm
19 trying to remember who it was. it was a private firm.
20 But they just said "That's going to be troublesome for
21 you that you're from Vallejo." I can't remember. Gosh,
22 I can't remember the recruiter's name. But even when I
23 was interviewing, we just had an OIS the night before
24 and he's like "Case in point. You guys have a lot of
25 OIS's, more than any other agency, so publicly we won't

1 matter what we think. The chief of police is the one
2 who said yes an IA is taking place or no, no IA is
3 taking place and then kind of gave us direction from
4 there, if we were going to talk to somebody, send them
5 to training, whatever we were going to do. But the
6 chief of police made the ultimate decisions. Neither
7 myself or Captain Horton were allowed to make that type
8 of decision. Even though most people think we would, we
9 actually could not.

10 Q. So going back to April of 2019, you're a
11 captain. And based on what you just said, you may think
12 an IA should be done, but that doesn't mean it's
13 required to be done. Correct?

14 A. The term "required" is -- I don't know if
15 that's a fair way to say it. I believe it should be
16 done, that an incident took place and we should
17 investigate ourselves. If the chief decides otherwise,
18 I can't change anything. He's the chief of police. I
19 have no control over him. I cannot -- I can only
20 suggest. I cannot tell him what to do. He's the chief.

21 Q. Prior to this incident April 15, 2019, did you
22 believe the Vallejo Police Department had a pattern and
23 practice of allowing officers to use excessive force
24 without consequence?

25 A. Yes.

1 invasion of their privacy.

2 THE WITNESS: They're not a named defendant, but I
3 learned it through professional standards, so I would
4 actually agree with you. It probably shouldn't be
5 discussed unless I know the person's name for sure.

6 Q BY MS. NOLD: That's fine.

7 Regarding the man with the missing leg that
8 Lieutenant Robinson, sounds like, did he investigate
9 that? Like did he conduct the investigation beyond kind
10 of the write-up? Do you know?

11 A. No. He would not have conducted the
12 investigation. He just does the initial interview of
13 the patrol officer when the incident occurs. That's not
14 generally part of the investigation. That memo may get
15 included in the IA folder at the end, but that's not
16 considered an investigation because the officer was not
17 given their POBAR rights when they're being interviewed.
18 Especially if they could be subject to discipline.

19 Q. But to your knowledge, there was some paper
20 created in relationship to the incident with the male
21 with the missing leg. Right?

22 A. I believe so.

23 MS. CRAWFORD: Calls for speculation.

24 Go ahead.

25 THE WITNESS: Yes, I believe so.

1 Lieutenant Robinson was very good at writing memos for
2 things that didn't even rise to any level. So it
3 wouldn't be uncommon to get a memo or two from him every
4 morning when you came into work.

5 Q BY MS. NOLD: Do you know if he keeps those?

6 A. You would have to ask him. I don't know.

7 Q. You were talking about the DA that you spoke to
8 about issues and didn't hold officers accountable. Were
9 you talking about Krishna Abrams?

10 A. Yes.

11 Q. Did you meet with her personally?

12 A. Yes, I did. We met to discuss a job
13 opportunity at the DA's office, and she wanted to know
14 why I didn't want to stick around at the police
15 department and try to be the chief of police.

16 Q. At that point what did you share with her?

17 A. I shared with her the issues of badge bending
18 and what was going on with only the two officers that I
19 knew about at the time. And then I shared some other
20 issues with her in regards to failed investigations. It
21 was probably a two-hour meeting. We spent probably a
22 half hour talking about the job and the other hour and a
23 half talking about issues inside the city of Vallejo.
24 Or inside the Vallejo Police Department.

25 MS. CRAWFORD: Counsel, I need to remind you, I have

1 a pretty hard stop at 5:00 to pick up my son. Do you
2 have any idea how much longer you're going?

3 MS. NOLD: I think that was the last thing I had as
4 a follow-up. So I think I can -- yeah, I have two,
5 three minutes.

6 MS. CRAWFORD: Okay.

7 Q BY MS. NOLD: So you had a two-hour meeting
8 with Krishna Abrams and spent three-quarters of that
9 talking about problems with the Vallejo Police
10 Department?

11 A. Correct.

12 Q. To your understanding, did she ever initiate
13 any sort of investigation to look into the things you
14 reported to her?

15 MS. CRAWFORD: Calls for speculation.

16 THE WITNESS: I don't know of any that she had done.

17 Q BY MS. NOLD: And fair to say the DA's office
18 never reached out to you to gather further information
19 to do a formal interview or anything like that, anything
20 on the record?

21 A. No. I was never contacted after that.

22 Q. Okay. Not even for job opportunities?

23 A. I did interview for a position there, and I
24 made it to the top two and then the other candidate got
25 the position.